

MEMORANDUM

JULY 25, 1985

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: STEPHEN COYLE, DIRECTOR

SUBJECT: WATERFRONT PROJECT, MASS. R-77, FINAL DESIGNATION
OF ROWES WHARF LIMITED PARTNERSHIP AS REDEVELOPER
OF ROWES/FOSTERS WHARF AND AUTHORIZATION TO
EXECUTE A GROUND LEASE

The Authority has received a request from Rowes Wharf Limited Partnership ("RWLP"), the tentatively designated redeveloper of Rowes and Fosters Wharves, for a series of actions in furtherance of that development. Those actions include final developer designation, authorization to execute the Ground Lease for the development parcel and a series of exhibits thereto; the long term lease of the Office/Retail portion of the development; formal approval of certain agreements between RWLP and the Boston Water and Sewer Commission to which the Authority is a party as owner of the development site; and an agreement among RWLP, the owner of the neighboring 400 Atlantic Avenue building and the Authority amending and clarifying the respective rights and obligations of RWLP and such owner in the thirty foot pedestrian area between the two developments.

The Authority entered into a Lease Commencement Agreement (the "LCA") with RWLP on May 24, 1984. In accordance with the LCA, RWLP has submitted, and the Authority has approved, the design development drawings for the entire project and contract drawings for "fast-track" subsurface work. Pursuant to an Amended and Restated License Agreement approved by the Authority and executed by the Director on February 25, 1985, construction work commenced and has been continuing on such subsurface work.

RWLP proposes to enter into a joint venture with The Equitable Life Assurance Society of the United States ("Equitable"), to be known as Rowes Wharf Associates, for the development and ownership of the Rowes Wharf project, and Equitable will provide \$100,000,000 of financing for the project. The Authority is requested to specifically authorize the joint venture as successor developer of the project.

RWLP is in full compliance with its obligations under the LCA, and the adoption of the following votes is in accordance with the terms of the LCA.

VOTED: That the Authority hereby grants final developer designation to Rowes Wharf Limited Partnership, a Massachusetts limited partnership of which Norman B. Leventhal, Edwin N. Sidman, Alan Leventhal and Mark S. Leventhal are general partners, for the redevelopment of Rowes Wharf and Fosters Wharf in the Downtown Waterfront - Faneuil Hall Urban Renewal Area as more particularly described in the property description filed with the records of this meeting (the "Parcel"); and the Authority hereby approves Rowes Wharf Associates, a joint venture to be formed between Rowes Wharf Limited Partnership and The Equitable Life Assurance Society of the United States, as successor developer to Rowes Wharf Limited Partnership at the time of such formation;

VOTED: That the Authority enter into a Ground Lease for the Parcel with Rowes Wharf Associates, and that the Director be and hereby is authorized and directed to execute and deliver on behalf of the Authority a Ground Lease for the Parcel in the form thereof presented to this meeting (including the exhibits annexed thereto, including, without limitation, the form of Master Deed, Reserved Unit Promissory Note, and Hotel Unit Promissory Note), with such changes therein as the Director, in his discretion, shall deem necessary or desirable; and the Director be and hereby is further authorized and directed to execute and deliver from time to time on behalf of the Authority amendments to such Ground Lease for the purpose of annexing thereto such exhibits contemplated in the Ground Lease as are not affixed thereto at the initial execution and delivery thereof, in form acceptable to the Director; and that the Director be and hereby is further authorized and directed to execute and deliver on behalf of the Authority an Office/Retail Unit Lease for the Office/Retail Unit in the Rowes Wharf project, in the form thereof presented to this meeting, with such changes therein as the Director, in his discretion, shall deem necessary or desirable, such lease to take effect upon the termination of, and in accordance with, the Ground Lease hereinabove described;

VOTED: That the Authority enter into a Rowes Wharf Cooperation Agreement with Rowes Wharf Limited Partnership and the Boston Water and Sewer Commission, and that the Director

be and hereby is authorized and directed to execute and deliver on behalf of the Authority said Rowes Wharf Cooperation Agreement, and all easements to the Boston Water and Sewer Commission contemplated therein, in the form thereof presented to this meeting, with such changes therein as the Director, in his discretion, shall deem necessary or desirable;

VOTED: That the Authority enter into a Project Coordination Agreement with Rowes Wharf Limited Partnership and Atlantic Avenue Limited Partnership, and that the Director be and hereby is authorized and directed to execute and deliver on behalf of the Authority said Project Coordination Agreement in the form thereof presented to this meeting, with such changes therein as the Director, in his discretion, shall deem necessary or desirable;

VOTED: That the Authority hereby accepts the offer of Rowes Wharf Limited Partnership to contribute the sum of One Hundred Thousand Dollars (\$100,000) to the Authority, payable in ten equal annual installments of Ten Thousand Dollars (\$10,000) commencing on the date of execution of the Ground Lease for the Parcel and thereafter on the first through ninth anniversaries thereof, for the purpose of maintaining and operating Harborpark; and that in consideration of such contribution the Authority hereby authorizes the Director to incorporate in the Office/Retail Unit Lease an option to purchase the Authority's interest in the Office/Retail Unit of the Rowes Wharf project at fair market value, said option to be exercisable at any time during the period commencing with the beginning of the eighteenth lease year of such Office Retail Unit Lease through and including the last say of the twenty-fifth such lease year;

VOTED: That the Director be and hereby is authorized and directed to execute and deliver on behalf of the Authority such further documents in connection with the lease of the Parcel, the Rowes Wharf project, or the creation of a condominium thereof and the disposition of units therein, as the Director, in his discretion, shall deem necessary or desirable to implement the transactions contemplated in the Ground Lease or by foregoing votes of the Authority, including, without limitation, the Master Deed annexed to the Ground Lease,

the Lease Termination Agreement referred to in Article 24 of the Ground Lease, and the deeds of the Authority's interest in the Reserved Unit and the Hotel Unit.

NOTICE OF DEEDS OF THE AUTHORITY

LANDING

and

NOTICE OF DEEDS OF THE AUTHORITY

To all

For Property Known as
Lower and Eastern Wharves
Boston
Massachusetts

GROUND LEASE

Dated _____, 1985

between

BOSTON REDEVELOPMENT AUTHORITY

Landlord

and

ROWES WHARF LIMITED PARTNERSHIP

Tenant

For Property Known as
Rowes and Fosters Wharves
Boston
Massachusetts

INDEX

to

GROUND LEASE
between
BOSTON REDEVELOPMENT AUTHORITY
and
ROWES WHARF LIMITED PARTNERSHIP

For property known as
Rowes and Fosters Wharves
Boston
Massachusetts

<u>ARTICLE</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
1	Premises	1
2	Term	3
3	Rent	4
4	Payment of Taxes and Other Charges	5
5	Possession, Use, Compliance with Laws, Maintenance and Repairs	12
6	Cessation of Use; No Abatement of Rent	17
7	Design Review; Construction of Improvements, Certificate of Completion	18
8	Changes and Alterations	37
9	Mechanics' and Other Liens	39
10	Insurance	42
11	Damage to or Destruction of the Property	51
12	Condemnation	52
13	Conditions Governing Repair, Restoration, Changes and Alterations	65
14	Waste	73
15	Inspection of Premises	73
16	Payments to Public Utilities	75
17	Landlord's Right to Perform Tenant's Covenants	75
18	Landlord's Remedies and Breach	77
19	Assignment	83
20	Subletting	88
21	Landlord's Security Interest; Covenant Against Encumbrances; Assignment of Subleases	91
22	Title to Improvements; Surrender of the Property	95
23	Leasehold Mortgages	98

24	Creation of Condominium; Purchase by Tenant of Landlord's Interest in Reserved and Hotel Units	110
25	Holding Over	117
26	Notices	118
27	Quiet Enjoyment; Encroachments and Vaults; Limitation of Liability	120
28	Estoppel Certificate	122
29	Remedies Cumulative	123
30	Surrender Not a Merger	124
31	Attorneys' Fees and Other Costs	124
32	Definitions	126
33	Non-Discrimination; Employment; No Conflicts	130
34	General; Right of First Refusal	137
35	Agreements with Respect to Pension or Profit Sharing Plans	142
36	Integration	144

THIS GROUND LEASE is entered into by and between **THE BOSTON REDEVELOPMENT AUTHORITY**, a public body politic and corporate organized under the laws of the Commonwealth of Massachusetts ("Landlord"), and **ROWES WHARF ASSOCIATES** ("Tenant") a joint venture between **THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES**, a New York Corporation ("Equitable"), and **ROWES WHARF LIMITED PARTNERSHIP**, a Massachusetts limited partnership ("RWLP").

ARTICLE 1

PREMISES

1.1 Landlord, for and in consideration of the rents herein-after reserved by Landlord and the covenants and agreements hereinafter contained on the part of Tenant to be paid, kept and performed, does hereby lease to Tenant, and Tenant does hereby take and hire upon and subject to the terms and conditions herein set forth, the Leased Premises.

1.2 The term "Leased Premises" shall mean those certain premises situated on Atlantic Avenue in Boston, Suffolk County, Massachusetts (but excluding all Improvements and all Building Service Equipment, both as hereinafter defined, hereafter erected or installed thereon title to all of which shall remain in Tenant until the termination of this Lease) which premises constituting both land and water area, are more particularly described in Exhibit "A" attached hereto and which consists of 234,224 square

feet, more or less, and a subsurface parcel beneath Atlantic Avenue containing 3865 square feet, more or less, together with all right, title and interest of Landlord in and to any easements, riparian rights (subject to the restrictions set forth in Articles 7 and 8 hereof) and or other rights now or hereafter appurtenant to said premises, specifically including those set forth in Exhibit A, subject however, to the exceptions to fee title described as the Permitted Exceptions set forth in Exhibit "B" attached hereto. Tenant acknowledges and agrees that the title to the Premises as described in Commonwealth Land Title Insurance Company policy number 817-119-815, with an effective date of May 30, 1985, is acceptable to it.

1.3 The term "Improvements" shall mean all improvements, structures, buildings, facilities, foundations, bulkheads, piers, interiors, landscaping, paving, pipes and conduits, roads, walkways, fixtures and, to the extent of Tenant's interest therein, fencing and utility lines, existing on the Leased Premises at the Lease Commencement Date or erected on the Leased Premises thereafter, and all alterations and additions to, and replacements of, any of the foregoing.

1.4 The term "Building Service Equipment" shall mean all apparatus, machinery, devices, fixtures, appurtenances, equipment and personal property necessary for the proper maintenance, protection, conservation and operation of the Improvements (other

than movable trade fixtures, machinery and equipment) and in particular shall include, without limiting the generality of the foregoing, the following, if any: awnings, shades, screens and blinds; asphalt, vinyl, composition and other floor, wall and ceiling coverings; partitions, doors and hardware; elevators, escalators and hoists; heating, plumbing and ventilating apparatus; gas, electric and steam fixtures; chutes, ducts and tanks; oil burners, furnaces, heaters, incinerators and boilers; air cooling and air conditioning equipment; washroom, toilet and lavatory fixtures and equipment; engines, pumps, dynamos, motors, generators, electrical wiring and equipment; tools, building supplies, lobby decorations and window washing hoists and equipment; garage equipment and gardening and landscaping equipment; docks, wharves, and other marina fixtures and equipment; and all alterations and additions thereto and replacements thereof.

1.5 The term "Property" shall mean the Leased Premises and the Improvements and the Building Service Equipment.

ARTICLE 2

TERM

2.1 The term of this Lease shall commence on the date hereof (the "Lease Commencement Date") and end upon the earlier to occur of (i) the fifteenth (15th) anniversary of the Lease Commencement Date, (herein, "the Anniversary Date"), or (ii) recording of the

Master Deed consented to by all Qualifying Leasehold Mortgagees (as hereinafter defined) in accordance with Article 23 (the "Lease Expiration Date"), unless sooner terminated as provided for in this Lease.

ARTICLE 3

RENT

3.1 Commencing on the Lease Commencement Date, Tenant covenants and agrees to pay to Landlord without demand, abatement, deduction or offset, as rent, in lawful money of the United States, annual rental as follows:

Tenant shall pay for each Lease Year or partial Lease Year during the term hereof Base Rent at the annual rate of Two Million One Hundred Eighty Four Thousand Dollars (\$2,184,000), which sum shall be paid in monthly installments of One Hundred Eighty Two Thousand Dollars (\$182,000) payable in advance on the first day of each month, except that the first such payment shall be paid on the Lease Commencement Date and shall be prorated if the Lease Commencement Date is other than the first day of the month, and the last such payment shall be prorated if the last month of the Term is less than a full month.

3.2 It is the intention of the parties hereto that the rent provided for in this Article shall be absolutely net to Landlord throughout the term of this Lease. Except as otherwise expressly

provided in this Lease, in order that such rent shall be absolutely net to Landlord, Tenant shall pay and save Landlord harmless from and against all Impositions, insurance premiums, carrying charges, costs, expenses and obligations of every kind and nature whatsoever relating to the ownership, leasing or operation of the Property which may arise, accrue or become due during the term of this Lease.

ARTICLE 4

PAYMENT OF TAXES AND OTHER CHARGES

4.1 Commencing on the Lease Commencement Date and continuing for the entire term of this Lease, as part of the consideration of this Lease and as additional rent hereunder, Tenant agrees to pay and discharge or cause to be paid and discharged promptly as the same become due and payable, all taxes, assessments, charges, license fees, municipal liens, levies, excise taxes or imposts, whether general or special, ordinary or extraordinary, imposed by any governmental authority as a result of or with respect to the ownership or use of the Leased Premises or the Improvements or the Building Service Equipment located thereon which may be levied, assessed, charged or imposed, or may be or become a lien or charge upon the Property, or any part thereof or upon the leasehold estate hereby created, or upon Landlord solely by reason of its ownership of the Leased Premises (hereinbefore and hereinafter termed individually an "Imposition" and collectively, the "Impositions"). If at any time during the term of this Lease the methods

of taxation or assessment or rate determination applicable to real estate prevailing at the Lease Commencement Date shall be altered so that in lieu of any Imposition described in this paragraph there shall be levied, assessed or imposed an alternate tax, however designated, such alternate tax shall be deemed an Imposition for the purposes of this Lease (including this Article) and Tenant shall pay and discharge such Imposition as provided by this Article. Nothing in this Lease contained shall be construed as imposing upon Tenant any obligation to pay any income, estate, inheritance, succession, capital levy, franchise or transfer tax imposed on Landlord and growing out of or levied in connection with Landlord's right, title or interest in the Leased Premises.

4.2 Any Impositions required to be paid by Tenant which shall relate to the Lease Year during which the term of this Lease shall commence or terminate shall be prorated between Landlord and Tenant as of the date of such commencement or termination. Tenant shall pay all assessments and charges of every type whether general, special, ordinary or extraordinary, which are assessed or levied against or with respect to the Property during the term of this Lease. If the law expressly permits the payment of such assessments or levies in installments, Tenant may utilize the permitted installment method, but shall pay each installment thereon before delinquency.

4.3 Tenant shall regularly, and in any event on Landlord's request, deliver to Landlord copies or duplicate receipts (or, if the same are not available, other materials acceptable to Landlord) showing timely payment of all Impositions paid by Tenant as required by this Lease.

4.4 Except as hereinafter provided, Tenant shall make all payments of all Impositions directly to the charging authority before delinquency and before any fine, interest or penalty shall become due or be imposed by operation of law for their nonpayment.

4.5 In the event that the Leased Premises are not separately taxed or assessed, then, in that event, the Impositions as levied shall be apportioned between the Leased Premises and such other property with which it is assessed in such manner that Tenant shall pay only an equitable portion of any such Imposition. Landlord shall indemnify and hold Tenant harmless from all loss, cost and expense which it may suffer or incur because of the failure on the part of Landlord to pay the Impositions on any property of which the Leased Premises are a part, provided that Tenant shall not be in default of its obligations to pay its equitable portion of such Impositions.

4.6 Subject to the provisions hereof, Tenant shall have the right to contest or review by appropriate legal or administrative proceedings, any Imposition or other charge or levy which Tenant is required to pay pursuant to the provisions of this Article, and

Tenant's obligation to pay the Impositions shall not be interpreted or construed to limit in any way Tenant's right to contest the payment of any Imposition.

Whenever Tenant desires to contest the amount or validity of any Imposition after it has become payable, as in this Article provided, and prior to the payment thereof, it shall first give written notice to Landlord of its intention to do so, and, if Landlord so requires, Tenant shall, from time to time during the pendency of such proceedings, deposit with the Depository (as hereinafter defined), as security for the payment of such Imposition, money or other security reasonably satisfactory to Landlord in amount sufficient, in the reasonable judgment of Landlord, to pay said Imposition, together with all interest and penalties in connection therewith, and all charges that may be assessed against or become a charge on the Property or any part thereof, in said proceedings. If Tenant shall not have theretofor paid, removed and discharged the Imposition and the interest and penalties in connection therewith, and the charges accruing in such proceedings, then, upon the termination of such proceedings, the money or other security so deposited (together with any interest on any security deposited hereunder) shall at the direction of Landlord or Tenant be applied to the payment, removal and discharge of said Imposition, if any, then payable and the interest and penalties in

connection therewith, and the charges accruing in such proceedings, and the balance, if any, shall be paid or returned to Tenant, but reserving in Landlord the right, in all events, to direct that the money or other security so deposited (together with any interest on any security deposited hereunder) be paid to it in order to offset against such balance any sums owing but unpaid by Tenant to Landlord under this Lease.

In the event that the money or other security so deposited shall be insufficient for this purpose, Tenant shall, forthwith, pay over to the Depository an amount of money sufficient (in Landlord's reasonable opinion), together with the money or other security so deposited pursuant to this Section 4.6, to pay the same.

Nothing in this Article, except as hereinabove provided, shall be construed as relieving, modifying or extending Tenant's covenant to pay any such Imposition and all other charges incident thereto at the time and in the manner in this Article provided.

4.7 Landlord shall join in any such proceeding where such joinder shall be necessary in order properly to prosecute such proceeding and Landlord shall have first been fully indemnified against all liability in connection therewith. Landlord shall not be subject to any liability for the payment of any costs or expenses in connection with any such proceeding brought by Tenant, and

Tenant covenants to indemnify and save harmless Landlord from any such costs or expenses, including reasonable legal fees.

4.8 The certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of any such Imposition, of the non-payment of any such Imposition, shall be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice or bill.

4.9 Tenant shall also pay or cause to be paid all permit, inspection and license fees, transfer taxes and all other public charges, however described, made or imposed by the City of Boston, the federal government or other public authority by reason of or in respect of Tenant's interest in this Lease transaction or any document to which Landlord and Tenant (or Tenant alone) is party, creating or transferring an interest or estate in the Property or any part thereof; or by reason or in respect of the business of Tenant or the occupancy, use or possession of the Property or any part thereof, or of any sidewalk, street or alley, or part thereof, adjoining the same, including any permit and inspection fees, or other public charges made or imposed upon Landlord as owner of the Leased Premises by reason of Tenant being engaged in the business of renting or leasing the Leased Premises, provided, however, that Tenant's failure to pay any income, excise, franchise or other tax imposed upon the Tenant by any federal, state or other public authority (other than taxes imposed by the City of Boston

pursuant to M.G.L. Chapter 59, §2) shall not constitute a default or an Event of Default hereunder.

4.10 Consistent with the provisions of M.G.L., Chapter 59, §2B, it is the express intent of the parties that the Property be fully taxable to Tenant as if Tenant were the fee owner thereof, notwithstanding any law or regulation to the contrary, and Tenant hereby agrees to make no claim or take any action the purpose of which would be to claim that the Property is exempt, directly or indirectly, from taxation. If the Property shall for any reason be treated as so exempt, Tenant shall pay, in semi-annual payments on January 1 and July 1 of each Lease Year, a sum which would equal the amount of taxes that would be reasonably levied against the Property but for its tax exempt status, as if Tenant were the fee owner thereof, and all such payments shall be Impositions for all purposes of this Lease including this Article 4. Such sum shall be payable as additional rent and shall be determined by Landlord using, as the basis therefor, the amount of taxes assessed against reasonably comparable properties in the City of Boston. For the purpose of the preceding two sentences, Landlord and Tenant agree that Tenant shall pay to Landlord for the period commencing on the Lease Commencement Date and ending on June 30, 1986, an amount in lieu of real estate taxes calculated by applying the City of Boston tax rate for commercial real property for Fiscal Year 1986 to a value for the Property of \$17,472,000, with appropriate pro-ration for the portion of the Fiscal Year included within such period.

ARTICLE 5

POSSESSION, USE, COMPLIANCE WITH LAWS, MAINTENANCE AND REPAIRS

5.1 Possession of the Property shall be delivered by Landlord to Tenant upon the Lease Commencement Date free and clear of all tenants and occupants (except for those ferry terminal operators, if any, which may be occupying portions of the Leased Premises pursuant to license agreements with Tenant in effect on the Lease Commencement Date in the form attached hereto as Exhibit S), and also free of all liens and encumbrances, all except for those matters disclosed in the Permitted Exceptions set forth in Exhibit "B". The Leased Premises are to be delivered in their present condition, "as is", it being agreed that Tenant has had opportunity to examine the same in all respects (including subsurface conditions and utilities), that Landlord has made no representations or warranties of any kind with respect to such condition and that Landlord shall have no obligation to do any work on or with respect to the Leased Premises, or the condition thereof.

5.2 Tenant agrees throughout the term of this Lease, at Tenant's sole cost and expense, promptly to comply with, and cause the Property to be maintained in conformity with, and not in violation of, all laws and ordinances (including, without limitation, the provisions of the Plan, as hereinafter defined) and the orders, rules, regulations and requirements of the federal, state and city governments and appropriate departments, commissions,

boards, bureaus, agencies and offices thereof, and the orders, rules, regulations and requirements of the water, sewer, electrical or other inspection departments of the City of Boston and the Board of Fire Underwriters (or any other body now or hereinafter constituted exercising similar functions), whether such laws, ordinances, orders, rules, regulations and requirements are foreseen or unforeseen, ordinary or extraordinary, and whether or not the same require structural repairs or alterations. Tenant will, likewise, observe and comply with the requirements of all policies of public liability, fire and all other policies of insurance at any time in force with reference to the Property (or improvements thereon). The provisions and conditions of Sections 13.2 and 13.4 of Article 13 hereof applicable to changes or alterations shall, mutatis mutandis, apply to work required to be done under this Section. Notwithstanding the foregoing, it is expressly understood that with respect to the construction of the Initial Improvements Tenant shall not be obligated to comply with, and the Initial Improvements shall not be subject to, any rules, regulations and requirements hereafter imposed by any Harborpark overlay zoning district or similar ordinance or regulation, to the extent the same is inconsistent with the Initial Improvements as shown on the Schematic Design referred to in Section 7.1 hereof, but that any future alteration of the Initial Improvements shall be subject to the aforesaid rules, regulations and requirements.

Tenant shall not, however, be in violation of the foregoing requirements when, in good faith, it exercises its rights under Section 7.12 to seek variances, special permits, exceptions and waivers with respect to zoning, building code and other laws, ordinances, rules and regulations applicable to the Property or contests, by appropriate legal proceedings, the validity or applicability of any law, ordinance, order, rule, regulation or requirement of any governmental agency and, unless criminal liability against Landlord may result therefrom, Tenant may delay compliance therewith until the final determination of such proceeding, provided, in the case of any contest and delay in compliance:

(a) Tenant shall notify Landlord forthwith, upon notice or knowledge of any violation or alleged violation of any such law, ordinance, order, rule, regulation or requirement, and of its intention to contest the same; and, thereafter, shall, from time to time, and on the request of Landlord, advise Landlord of the status of any such proceedings;

(b) Tenant shall indemnify, save harmless and defend Landlord (with counsel of Tenant's selection, but subject to approval by Landlord which shall not be unreasonably withheld), from any loss, cost, liability or expense which may be incurred by Landlord by reason of such non-compliance or delay;

(c) Tenant shall prosecute such contest of validity or applicability to conclusion with all due diligence; and

(d) Tenant shall pay over to the Depository, on the request of Landlord, security (in an amount reasonably estimated by Landlord as necessary to effect compliance) for the faithful performance and observance of its obligation to comply with any such law, ordinance, order, rule, regulation or requirement, and for the payment of any penalties which may accrue by reason of non-performance or delay in compliance therewith, if it should be finally determined that the same is valid and applicable.

5.3 Tenant agrees to indemnify, defend (with counsel of Tenant's selection, but subject to approval by Landlord which shall not unreasonably be withheld), and save harmless Landlord against and from any and all claims by or on behalf of any person, firm or corporation, arising during the term of this Lease or any period in which Tenant shall occupy any part or all of the Property from the conduct or management of any work or thing whatsoever done in or about the Property, and will further indemnify, defend (with counsel of Tenant's selection, but subject to approval by Landlord which shall not unreasonably be withheld), and save harmless Landlord against and from any and all claims arising during (even though asserted after) the term of this Lease from any condition of the Property, or arising from any breach or default on the part of Tenant in the performance of any covenant

or agreement on the part of Tenant to be performed under the terms of the Lease, or arising from any act or neglect of Tenant or any of its agents, contractors, servants, employees or licensees, or anyone claiming by, through or under Tenant, or arising from any accident, injury or damage whatsoever caused to any person, firm or corporation occurring during the term of this Lease, in or about the Property. Notwithstanding the foregoing, nothing herein shall obligate Tenant to indemnify, defend or save harmless Landlord from any claims arising out of the negligence or default of Landlord, its agents, contractors, servants, or employees.

5.4 Tenant agrees to pay and be liable for the payment of all costs and charges, including the reasonable fees of counsel engaged by Landlord, incurred in exercising rights of Landlord under this Lease on account of any default or breach of condition by Tenant, or occurrence of condition which, under this Lease, confers upon Landlord the right to exercise remedies available to Landlord in the event of default of Tenant, including, without limitation, such costs and expenses incurred in enforcing Landlord's right to possession of the Property after the expiration or earlier termination of the term of this Lease.

5.7 For the purposes of this Article, sidewalks which abut the Leased Premises shall, to the maximum extent permissible according to law, throughout the term of this Lease, be kept by Tenant free of accumulation of dirt, rubbish, snow and ice. Landlord and Tenant agree that no commercial activities shall be

conducted upon the areas referred to in the preceding sentence without their mutual written consent and Landlord will join with Tenant in opposing the issuance of all licenses and permits for such activities, to the extent Landlord's joinder is required for, or desirable in, such opposition.

To the extent that legal liability for maintenance of any other public areas, such as streets and vaults, adjoining the Leased Premises is imposed upon a private owner of property in the jurisdiction in which the Leased Premises lies, Tenant shall perform the obligations on the part of any such owner required to be performed under applicable law with respect to such areas.

ARTICLE 6

CESSATION OF USE; NO ABATEMENT OF RENT

6.1 Except as otherwise specifically provided in this Lease, this Lease shall not be terminated, the respective obligations of the parties shall not be affected and no abatement, refund, offset, diminution or reduction of Base Rent or amounts due as additional rent shall be claimed by or allowed to Tenant, or any person claiming by, through or under Tenant, under any circumstances whatever, whether for inconvenience, discomfort, interruption, cessation or loss of business, or otherwise, or whether arising from the making of alterations, changes, additions, improvements or repairs to any buildings or other Improvements now on, under or above or which may hereafter be erected on, under or above the Leased Premises, or whether by virtue or because of any present or

future governmental laws, ordinances, regulations, direction or action or for any other cause or reason whatsoever and whether or not stated in or implied by the foregoing.

ARTICLE 7

DESIGN REVIEW; CONSTRUCTION OF IMPROVEMENTS; CERTIFICATE OF COMPLETION

7.1 Landlord acknowledges that concurrently with the execution of this Lease Landlord has made final designation of Tenant as redeveloper of the Leased Premises, and prior to the execution hereof, Tenant has submitted to Landlord and Landlord has approved the following plans with respect to the Improvements initially to be constructed on the Leased Premises:

- (a) the Schematic Design as shown on the plans identified in Exhibit C-1 attached hereto; and
- (b) the so-called "fast-track" plans and specifications identified in Exhibit C-2 attached hereto.

The term "Initial Improvements" as used in this Lease shall refer to the improvements shown on the above plans, with the exception of the following items of work (which items are herein referred to collectively as the "Interior Completion Work"):

- (i) all interior partitions except partitions between each Unit in the Condominium, as defined in Article 24 hereof;
- (ii) interior wall finishes;
- (iii) interior ceilings;

- (iv) interior floor finishes;
- (v) doors, frames and hardware;
- (vi) elevators and escalators;
- (vii) mechanical, electrical, plumbing, fire protection and life safety-central equipment, main risers and distribution systems;
- (viii) mechanical, electrical and plumbing, fire protection and life safety fixtures and fittings;
- (ix) Tenant improvement work in the Office/Retail Unit, as defined in Article 23 hereof, and Furniture, Fixtures and Equipment in the Hotel Unit, as defined in Article 23 hereof;
- (x) interior finishes, cabinetry and appliances for the individual units of the Residential Condominium;
- (xi) special construction and finish items;
- (xii) finishes in the individual rooms or suites of the Hotel Unit; and
- (xiii) site work and landscaping.

Within 120 days after the date hereof, Tenant shall submit the Design Development (as described in the Design Review Procedure attached hereto as Exhibit D) to Landlord. Landlord shall review the Design Development in accordance with the Design Review Procedure for conformity with the approved Schematic Design and this Lease and shall, within ten (10) days after receipt thereof, either approve the Design Development or notify Tenant in writing

of disapproval, specifying the respects in which the Design Development is disapproved.

In the event of disapproval by Landlord, Tenant shall, within thirty (30) days after Tenant receives written notice of such disapproval, resubmit the Design Development altered in those respects specified by Landlord as the grounds for disapproval. The resubmission shall be subject to the review and approval of Landlord in accordance with the procedure hereinabove provided for an original submission, until the Design Development shall be approved by Landlord; provided, however, if Tenant shall have resubmitted such Design Development to Landlord, altered from the prior submission in response to Landlord's grounds for prior disapproval, and the same shall again be disapproved by Landlord (a "Design Review Impasse"), either party may, by written notice to the other party, invoke the provisions contained in Exhibit E attached hereto.

If Tenant receives no notification from Landlord of such disapproval within ten (10) days after submission of the Design Development or any correction thereof, as the case may be, such Design Development or corrected Design Development shall be deemed approved.

Within the greater of 110 days after the date hereof or one hundred eighty (180) days following receipt by Tenant of all environmental permits and approvals necessary to enable construction of the Initial Improvements as shown in the approved or deemed

approved Design Development (including, without limitation, licenses to fill and erect structures pursuant to M.G.L. Chapter 91) and the expiration of all applicable appeal periods without appeal, or, if an appeal shall have been taken the rendering of a final adjudication beyond appeal if in favor of the grant of such permit or approval, Tenant shall submit the Contract Documents (as described in the Design Review Procedure) to Landlord. Landlord shall review the Contract Documents in accordance with the Design Review Procedure for conformity with the approved Design Development and this Lease and shall, within ten (10) days after receipt thereof, either approve the Contract Documents or notify Tenant in writing of disapproval, specifying the respects in which the Contract Documents are disapproved.

In the event of disapproval by Landlord, Tenant shall, within thirty (30) days after Tenant receives written notice of such disapproval, resubmit the Contract Documents altered in those respects specified by Landlord as the grounds for disapproval. The resubmission shall be subject to the review and approval of Landlord in accordance with the procedure hereinabove provided for an original submission, until the Contract Documents shall be approved by Landlord; provided, however, if Tenant shall have resubmitted such Contract Documents to Landlord, altered from the prior submission in response to Landlord's grounds for prior disapproval, and the same shall again be disapproved by Landlord (a "Design Review Impasse"), either party may, by written notice

to the other party, invoke the provisions contained in Exhibit E attached hereto.

If Tenant receives no notification from Landlord of such disapproval within ten (10) days after submission of the Contract Documents or any correction thereof, as the case may be, such Contract Documents or corrected Contract Documents shall be deemed approved.

7.2 Landlord's review of the Design Development pursuant to Section 7.1 above shall be limited to consideration of a development or refinement of the Schematic Design or to new elements which were not present in the Schematic Design. Similarly, Landlord's review of the Contract Documents pursuant to Section 7.1 above shall be limited to consideration of a development or refinement of the Design Development or to new elements which were not present in the Design Development. It is expressly understood that the scope of review by Landlord of the Design Development and Contract Documents shall not extend to the design or layout of interior spaces not visible by the general public, nor to structural, electrical, mechanical or plumbing designs except to the extent that the selection of any structural, electrical, mechanical or plumbing system impacts the design of exterior elements of the Initial Improvements.

7.3 If the approved Schematic Design, Design Development or the Contract Documents for the Initial Improvements shall be at variance with any development or dimensional controls of the

Downtown/Waterfront/Faneuil Hall Urban Renewal Plan applicable to the Leased Premises, Landlord shall adopt such minor modifications to such Plan as may be necessary to construct the Initial Improvements in accordance with said approved submissions.

7.4 Not later than sixty (60) days after the date Landlord has approved or has been deemed to have approved the Contract Documents, Tenant shall submit to Landlord (a) a copy (certified by Tenant to be true and correct) of evidence of financing acceptable to the Director to be provided by one or more lenders which is or are an Institution as herein defined, whereby such lenders express their intention, subject to such conditions as they may require, to furnish construction financing for the Initial Improvements contained in the Design Development together with (b) evidence reasonably satisfactory to Landlord that Tenant has demonstrated, to the satisfaction of such lenders, the availability of (i) equity capital which, when combined with the financing to be provided by such lenders, is adequate to complete the Initial Improvements and (ii) equity capital or financing, or a combination of both, adequate to complete the Interior Completion Work. Such evidence of financing shall be accompanied by such further materials from Tenant as Landlord may reasonably request evidencing satisfaction of, or Tenant's ability to satisfy, the conditions to lending therein set forth. "Institution" for these purposes shall mean the participation of any one or more of the

institutions referred to in Section 31.5, either jointly or severally as to portions of the Initial Improvements.

7.5 Except as herein provided in respect of "fast-track construction," Tenant shall not apply for a building permit with respect to all or any part of the Initial Improvements or with respect to any changes or alterations requiring Landlord's approval under Section 8.1 hereof without the prior certification of Landlord (which Landlord shall give if the facts so warrant) that the work to be done or completed as set forth in the permit application is in accordance with the drawings and specifications included in the Contract Documents (herein, the "Final Drawings and Specifications"), as initially approved by Landlord or as subsequently amended and approved in writing by Landlord. Except as herein otherwise provided in respect of "fast-track" construction, no work shall be done with respect to all or any part of the Initial Improvements or with respect to such changes or alterations unless such work is substantially in accordance with such approved or amended and approved Final Drawings and Specifications. In addition, except as herein otherwise provided in respect of "fast-track" construction, before beginning any demolition of or construction of Improvements on the Leased Premises, Tenant shall submit to Landlord the following:

(a) A copy (certified by Tenant to be true and correct) of the contract between Tenant and a general contractor or construction manager (hereinafter called the "Contractor") engaged by

Tenant for the construction of the Initial Improvements (or in the case of the "fast-track" construction described below, any construction contract related thereto, if it exists), together with a writing executed by the Contractor in which the Contractor undertakes to carry out all of the provisions hereof relating to the work to be performed by the Contractor and those engaged by him and the requirements of Article 32 of this Agreement. Such contract and writing shall be subject to the reasonable approval of Landlord.

(b) A copy of a building permit issued by the Boston Inspectional Services Department fully covering the Initial Improvements, together with evidence satisfactory to Landlord that all fees in connection therewith have been paid.

(c) A copy of a performance and payment bond or other assurance of completion of the Initial Improvements, in an amount at least equal to the aggregate contract price or prices under Tenant's general construction contract or contracts for the construction of the Initial Improvements above foundations. In the event RWLP or any partner or partners thereof provides a guaranty of completion to its construction lender, RWLP or said partner or partners may, at its election, in lieu of providing the aforesaid performance and payments bonds and as satisfactory assurance of completion of the Initial Improvements for the purposes of this Section 7.5(c) extend to Landlord the benefit of said guaranty as to completion of the Initial Improvements, and item (xiii) of the

Interior Completion Work, it being understood (i) that Tenant's liability to Landlord thereunder shall be concurrent with and not cumulative with, any such guarantor's liability to Tenant's construction lender to the effect that such guarantor's maximum liability to Landlord and said construction lender shall not exceed the amount of said guaranty, and (ii) Landlord's rights under said guaranty shall be subject and subordinate to said construction lender's rights thereunder.

As part of its submission of Contract Documents, or prior to submission of completed Contract Documents, Tenant may submit plans and specifications prepared by the Architect for purposes of commencing work with respect to certain elements of the Initial Improvements which may include site work, foundation work, filling, dredging and pile construction and other similar items which Tenant proposes to commence on a "fast-track" basis. Landlord will promptly review said plans and specifications for "fast-track" construction and shall approve commencement of work on specific "fast-track" construction elements which are demonstrated to the satisfaction of Landlord to be consistent with the Design Development plans previously approved and with elements of the Contract Documents, if any, as have then been submitted by Tenant, which are acceptable to Landlord. As a condition to proceeding with construction of any "fast-track" element, a copy of the construction contract for construction of such "fast-track" elements and a writing complying with the requirements of clause

(a) above shall be submitted by Tenant in advance to Landlord for its approval and Tenant shall meet the other requirements of this Section as and to the extent applicable. Approval by Landlord of "fast-track" construction elements shall not constitute a waiver of Landlord's subsequent rights with respect to review and approval of the Contract Documents. Any construction prior to approval by Landlord of the Contract Documents shall be at the sole risk of Tenant, including the costs of corrective or additional work (which may include demolition) to conform the work to the Contract Documents approved by Landlord.

7.6 With respect to the Initial Improvements only:

(a) Tenant shall begin the construction of the Initial Improvements in accordance with the Final Drawings and Specifications (subject to such deviations therefrom as are not, in Landlord's reasonable judgment, material in nature) as soon after Landlord's approval thereof pursuant to Section 7.1 as is reasonably practicable.

(b) Tenant shall diligently prosecute to completion the construction of the Initial Improvements and item (xiii) of the Interior Completion Work and shall complete construction of the Initial Improvements not later than thirty-six (36) months from the Lease Commencement Date (as such period may be extended pursuant to the provisions of Section 7.12 hereof, or such additional time beyond such thirty-six (36) month period [as such

thirty-six (36) month period may be extended pursuant to Section 7.12 hereof] as may be approved by Landlord, which approval shall not be unreasonably withheld), and item (xiii) of the Interior Completion Work within a reasonable period thereafter. Withholding of consent requested because of financial difficulties shall not be treated as unreasonable action by Landlord.

(c) Tenant shall update and submit to Landlord for its approval at the time construction of the Initial Improvements is begun the construction progress schedule included in the Contract Documents. Said schedule shall be resubmitted semi-annually (or at shorter intervals upon Landlord's request, but not more frequently than monthly) until the construction of the Initial Improvements has been completed, with actual progress shown in each submission. This semi-annual submission shall be accompanied by a written report by Tenant citing any adjustments to the progress forecast, analyzing the causes thereof, and, where applicable, noting corrective efforts. Such work of Tenant shall be subject to inspection by representatives of Landlord in accordance with the Construction Inspection Portions of the Design Review Procedure, and Landlord shall notify Tenant promptly in writing in accordance with Article 26 of any respects in which Landlord observes that said work is not in compliance with the Final Drawings and Specifications or the requirements of this Lease (herein "Construction Defects") and shall provide Tenant and each Qualifying Leasehold Mortgagee with copies of all reports

prepared by representatives of Landlord in connection with such inspections. Upon receipt of such notification, Tenant shall promptly undertake and proceed diligently to cure any such Construction Defects to the reasonable satisfaction of Landlord. Nothing herein shall be treated as allowing Tenant an extension of time deadlines, without Landlord's prior written consent, (except as provided in Section 7.12 hereof), nor shall Landlord's inspections or actions or failure to act hereunder render Landlord liable to Tenant or any other party for failure of the Initial Improvements to be constructed as required by the terms of the Lease. Landlord shall in conducting such inspections comply with all reasonable safety procedures and requirements established by Tenant.

(d) No change order respecting, or modification of, the Initial Improvements as shown on the Final Drawings and Specifications (hereinafter referred to as a "Change Order") which would affect the external appearance of public lobbies, arcades, open spaces or landscaping, or the external appearance of any building (including the roof) shall be issued or implemented unless such Change Order shall have been submitted to and approved in writing by Landlord prior to its issuance and implementation. If Landlord shall neither approve nor disapprove in writing within ten (10) business days of receipt by it of a notice containing such Change Order, then it shall be treated as having been approved. In the event Tenant shall fail to comply with the foregoing requirements,

Landlord may, within a reasonable time after discovery thereof by Landlord, direct in writing that Tenant modify or reconstruct such portion or portions of the Initial Improvements erected or being erected as are not substantially in conformance with the approved Final Drawings and Specifications or any approved modifications thereof, or Change Order therefor, so as to bring them into conformance therewith. Tenant shall promptly comply with such a directive. In addition to any other remedies available under this Lease, upon Tenant's failure after notice in accordance with Article 26 and the expiration of applicable periods to comply with the provisions of this subsection (d), Landlord may enforce said provisions by an action in a court of appropriate jurisdiction to compel specific performance.

7.7 No sign shall be erected or placed on the exterior of any Improvement on the Leased Premises, or on any portion of the Leased Premises which is not enclosed within a building, or which is visible to the public from outside a building, unless the character, location, design, size, shape, form and lighting of such sign shall have been approved by Landlord in writing. All allowed signs shall conform to applicable laws and regulations, including the Boston Sign Code.

7.8 Tenant shall provide as part of both the Initial Improvements and the off-site work performed by Tenant in connection with and relating to the construction of the Initial Improvements, works of art reasonably satisfactory to Landlord and shall expend

for such works of art a sum which shall be at least equal to one percent (1%) of the amount (said 1% of the amount hereinafter described being known as the "Art Expenditure Requirement") to be expended by Tenant for actual construction of the Initial Improvements, exclusive of legal, engineering and architectural fees and other so-called "soft costs" and construction costs for work below grade, said amount to be established by a certificate of Tenant setting forth said amount in reasonable detail. In this connection, Tenant shall include in the Final Drawings and Specifications submitted to Landlord a general program for employment of art to support and enhance the Initial Improvements. The term "works of art" used herein shall include ornaments, arrangements, or effects created through the use of sculpture, bas-reliefs, mosaics, frescos, murals, prints, tapestries, paintings, fountains which are sculptural in themselves or designed to enhance the setting of the sculpture, and non-standard street, arcade, plaza, terrace and other open space treatments and other improvements, including landscaping, having an increment of aesthetic value as approved by Landlord, provided that at least 25% of the Art Expenditure Requirement shall be expended for so-called "commissioned" works of art visible to the public, such as paintings, sculptures, murals and the like, and such other items as may be approved by the Director.

7.9 Tenant shall during the term provide for the continuation of passenger ferry operations on the Leased Premises, provided that Tenant (with the approval of Landlord, which shall not be unreasonably withheld or delayed) may relocate said operations to such alternative locations on the Leased Premises or in the vicinity thereof as Tenant determines may be necessary or convenient to avoid interference with the orderly construction of the Initial Improvements or to provide for the safety of the public.

7.10 It is the general policy of Landlord that all new buildings constructed in urban renewal project areas shall be so designed to accommodate persons who are physically handicapped. In furtherance of this policy, and without limiting Tenant's obligation to comply with all legal requirements applicable thereto, the Final Drawings and Specifications shall include provisions conforming insofar as practicable with the requirements imposed by the Architectural Barriers Board of The Commonwealth of Massachusetts. Landlord shall take into consideration the provisions and objectives of such requirements in its review of and action upon the Final Working Drawings and Specifications.

7.11 Tenant shall erect and properly maintain at all times, as required by the conditions and the progress of work performed by or at the request of Tenant from time to time during the term of this Lease all reasonably necessary safeguards for the protection of workmen and the public.

7.12 Tenant agrees for itself and every successor in interest to the leasehold estate in the Leased Premises, or any part thereof, that Tenant will take all steps necessary to enable it to, and that it will, commence construction of the Initial Improvements, and that it will diligently prosecute and complete the same, in accordance with the times set forth therefor in Section 7.6(a) and (b) hereof; provided, however, that Tenant's obligations under Sections 7.6(a) and (b) hereof are subject only to delays due to causes beyond Tenant's control and without its fault or negligence (herein, "Force Majeure Delay"), including but not restricted to, acts of God, or of the public enemy, acts and restrictions of government, acts of Landlord constituting breaches of its covenants or obligations hereunder, fires, floods, epidemics, quarantine restrictions, strikes and other labor difficulties, general unavailability of labor or materials, freight embargoes, and unusually severe weather or delays of subcontractors and suppliers due to such causes (and likewise, where such occurrences will necessarily delay commencement of construction, Tenant will not be in breach of or default of its obligations with respect to the completion of the Contract Documents if Tenant elects to delay preparation and submission of the same for a period of time equal to the delay in the commencement of construction which will thereby be incurred), but financial inability to proceed shall never be treated as a cause beyond Tenant's reasonable control. Tenant shall give Landlord written

notice of any Force Majeure Delay within ten (10) business days after the beginning of each such delay setting forth cause thereof, and there shall be excluded in computing the duration of any Force Majeure Delay the period from the date of beginning of such delay to the date Tenant gives Landlord notice thereof, unless such notice is given within the aforesaid ten (10) business day period.

Tenant shall have the right to seek and obtain variances, special permits, exceptions and waivers with respect to all zoning, building code and other laws, ordinances, rules and regulations applicable to the Property. Landlord shall cooperate with and assist Tenant in every reasonable way in Tenant's efforts to obtain said variances, special permits, exceptions and waivers and all other governmental consents, approvals and permits which may be required for the construction of Improvements, but this obligation shall not require the expenditure of any monies by Landlord (including, without limitation, expenditures for permits or approvals of any type), nor derogate from Landlord's rights of review and approval of the Design Development and Contract Documents and changes and alterations in the Improvements, as and to the extent set forth in this Article 7 and in Article 8 hereof.

7.13 Landlord shall comply with the terms and provisions of the Cooperation Agreement relating to the Plan between it and the City of Boston, dated June 24, 1964 (which is hereby incorporated herein by reference) and shall enforce all of its rights there-

under, to the extent such enforcement shall be necessary in Tenant's reasonable judgment to enable Tenant to meet its obligations hereunder. Landlord's obligations under this Section 7.13 shall survive the termination of this Lease pursuant to Article 24 hereof.

7.14 Reference is made to the fact that the Initial Improvements consist of four buildings identified in the Design Development as the Terminal Building, the North Wharf Building, the Central Wharf Building and the Atlantic Avenue Building (collectively, the "Buildings" and each individually a "Building") and accordingly the parties contemplate the issuance of four Certificates of Completion (as hereinafter defined), as hereinafter provided. Promptly after substantial completion of the Initial Improvements in respect of each such Building in accordance with the provisions of this Lease, and provided Tenant is not in default hereunder in its construction obligations with respect to any other Building, Landlord will furnish Tenant with an appropriate instrument in recordable form so certifying as to said completion (hereinafter the "Certificate of Completion"). Such certification by Landlord shall be a conclusive determination of satisfaction and termination of the agreements and covenants in this Lease with respect to the obligations of Tenant and its successors and assigns to commence and complete such portion of the Initial Improvements (including, without limitation, Tenant's

obligations under Section 7.6 herof), except that such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of Tenant to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance the Initial Improvements or any part thereof, except as expressly provided in such mortgage, nor affect Landlord's rights and remedies under Article 18 upon an Event of Default as defined therein, it being expressly understood that upon such Event of Default Improvements as to which any such Certificate of Completion shall have been issued shall be subject to said rights and remedies under Article 18 to the same degree as shall apply to the other portions of the Initial Improvements.

Tenant agrees that Landlord shall be under no obligation to issue a Certificate of Completion with respect to any Building until such time as Landlord has had a reasonable opportunity to inspect the Building, provided, however, that Landlord shall not be required to make an inspection hereunder unless Tenant has requested by written notice to Landlord that it issue a Certificate of Completion.

If Landlord shall refuse or fail to issue a Certificate of Completion in accordance with the provisions of this Section 7.15, Landlord shall, within thirty (30) days after receipt by Landlord of a notice containing a written request by Tenant, provide Tenant with a written statement, indicating in adequate detail in what respect Tenant has failed substantially to complete the Building

in accordance with the provisions of this Lease, and what measures or actions will be necessary, in the opinion of Landlord, for Tenant to take or perform in order to obtain a Certificate of Completion. If Landlord shall refuse or fail to provide Tenant with such a written statement within thirty (30) days of a request therefor by Tenant, the Certificate of Completion shall be deemed to have been issued. Tenant shall have the right, after giving Landlord ten (10) business days written notice of Tenant's intent to do the same (which notice shall contain in capital letters a legend in the form set forth in Article 26), to record an affidavit establishing that a request for a certificate of completion has been made and that thirty (30) days have elapsed without response by Landlord, which affidavit shall be conclusive proof of the deemed issuance of such Certificate of Completion.

ARTICLE 8

CHANGES AND ALTERATIONS

8.1 After the Initial Improvements required by this Lease to be constructed by Tenant on the Leased Premises or any portion thereof have been completed, Tenant shall not without the prior written approval of Landlord reconstruct, demolish, subtract therefrom, make any additions thereto or extensions thereof, or change the materials, design, dimensions, or color thereof, nor permit the same by any person, if such reconstruction, demolition, subtraction, addition, extension or change would affect in any way the external appearance of public lobbies, arcades, open spaces,

open water areas or landscaping, or the external appearance of any Building (including the roof) except that the restoration of the Improvements after a casualty or eminent domain taking to the condition required to exist prior to such event and the completion of the Interior Completion Work (except for any portion or portions thereof which affect the external appearance of public lobbies, arcades, open spaces or landscaping, or the external appearance of any Building) shall not require such approval.

8.2 In requesting such approval, Tenant shall submit to Landlord for its approval such plans, specifications, and other materials for the proposed work as are required by the Design Review Procedure attached as Exhibit D to this Lease, all within such reasonable time limits as Landlord shall require therefor.

8.3 If Landlord shall consent to any alteration, addition, change or modification requiring such consent under Section 8.1 hereof, the same shall be accomplished by Tenant in compliance with these requirements:

(a) No work shall be undertaken until Tenant shall have produced and paid for, or caused to be paid for, so far as the same may be required from time to time, all governmental permits and authorizations of the various governmental agencies having jurisdiction.

Landlord agrees to join in the application for such permits or authorizations, whenever such action is necessary, but at Tenant's sole cost and expense.

(b) No work shall be undertaken until Tenant shall have presented evidence acceptable to Landlord of Tenant's ability to pay for the cost thereof.

(c) Any work, the cost of which is reasonably estimated at \$250,000 (or the amount being equivalent in value at the time in question to \$250,000 in 1985, herein called the "value equivalent") or more, shall not be undertaken or permitted, except after compliance with the requirements of Section 13.1, below.

8.4 If Tenant shall fail to comply with the foregoing requirements of this Article 8, Landlord may, without limiting other remedies available to it, direct in writing that Tenant modify, reconstruct or remove any work done without the prior written approval of Landlord. Tenant shall promptly comply with such a directive, and shall not proceed further with any work until such directive is satisfied.

ARTICLE 9

MECHANICS' AND OTHER LIENS

9.1 Tenant agrees that with the exception of liens arising under M.G.L. Chapter 254 §1 it shall not suffer or permit any mechanics', laborers', materialmen's or other liens to attach against or be filed against the Property or any part thereof, by reason of work, labor, services or materials supplied or claimed

to have been supplied to or on behalf of Tenant or to anyone claiming by, through or under Tenant (Landlord and Tenant hereby expressly agreeing that Landlord shall have no liability whatsoever on account of any such liens, such liability being hereby expressly denied and prohibited). If any mechanics', laborers', materialmen's or other liens shall at any time be filed against the Property, or any part thereof, Tenant shall cause the same to be discharged of record within forty-five (45) days after the date of filing the same unless, within such forty-five (45) day period, Tenant shall furnish Landlord with satisfactory evidence that it has instituted appropriate legal proceedings to contest any such lien which will prevent the enforcement thereof prior to the final determination of such proceedings and has deposited with the Depository, or, with the Court in which the lien is being contested, money in an amount sufficient in Landlord's reasonable opinion from time to time to assure payment of the lien, together with interest, penalties, court costs and attorneys' fees arising in such proceedings, or a surety bond reasonably satisfactory to Landlord, for an amount sufficient to guarantee the payment of such lien, together with interest, penalties, court costs and attorneys' fees.

9.2 In connection with any proceeding still constituting a lien on the Property, Tenant agrees diligently to prosecute such proceedings to a final determination or conclusion. If Tenant shall fail to discharge such mechanics', laborers', materialmen's

or other liens within such period or, in the event it desires to contest such lien by appropriate legal proceedings, fails to comply with any of the foregoing requirements in connection therewith and diligently to prosecute such proceedings to a final determination or conclusion, then, in addition to any other right or remedy by Landlord, Landlord may, but shall not be obligated to, discharge the same either by requiring the Depository to pay (to the extent of the monies hereby held by it) the amount claimed to be due or by procuring the discharge of such lien by deposit in Court or by giving security or in such manner as is, or may be, prescribed by law. Any amount paid by Landlord for any of the aforesaid purposes, and all reasonable legal and other expenses of Landlord, incident to obtaining the discharge of such liens, with all necessary disbursements in connection therewith, with interest thereon at the rate hereinafter set forth from date of payment, shall be paid by Tenant to Landlord on demand, and, if unpaid, may be treated as additional rent due hereunder

Nothing in this Article contained shall imply any consent or agreement on the part of Landlord to subject Landlord's estate to liability under any mechanics', materialmen's or other lien law.

ARTICLE 10

INSURANCE

10.1 Tenant shall, at Tenant's sole cost and expense, keep the Improvements and the Building Service Equipment insured in the name of Tenant and Landlord and, if required by the Leasehold Mortgagee (and if the Leasehold Mortgagee agrees that the proceeds thereof shall be applied in accordance with the provisions of this Lease), the Leasehold Mortgagee, as their respective interests may appear: (1) against loss or damage by fire and (2) against such other risks as Landlord and the Leasehold Mortgagee may reasonably require and as are now or may hereafter be covered on buildings similar in construction, general location, use and occupancy, to the Improvements, including, but without limiting the generality of the foregoing, windstorm, hail, explosion, riot and civil commotion, damage from aircraft and vehicles and smoke damage, together with so-called demolition and increased cost of reconstruction coverage, as and when insurance against such risks is obtainable. The amount of insurance shall be equal to the replacement cost thereof (which shall mean actual replacement cost without deduction for physical depreciation), excluding excavation costs and costs of foundations, footings and underground installations. The replacement cost thereof shall be accepted by the company issuing such casualty loss policy and evidenced by an "agreed amount endorsement" or waiver of co-insurance, or other evidence satisfactory to Landlord. Not more frequently than every third

year, Landlord shall have the right to notify Tenant that it elects to have the "agreed amount" redetermined by the insurance company then providing coverage. The redetermination shall be made promptly in such manner as is acceptable to Landlord, the insurance company, and the Leasehold Mortgagee and each party shall be promptly notified of the results. The insurance policy shall be adjusted according to the redetermination, and Tenant shall pay any increase in the premiums.

10.2 Tenant shall, at its sole expense, procure and maintain during the term hereof rent or rental value insurance naming Tenant, Landlord and each Qualifying Leasehold Mortgagee as insureds, as their interests may appear, in an amount equal to not less than one hundred percent (100%) of the annual Base Rent due Landlord hereunder.

10.3 Tenant shall also maintain, at Tenant's sole cost and expense, but for the mutual benefit of Landlord and Tenant, and in the name of Landlord and Tenant, and, if required by the Leasehold Mortgage, the Leasehold Mortgagee:

(a) comprehensive general public liability insurance against claims for personal injury, death or property damage occurring upon, in or about the Leased Premises or the Improvements or any elevators or escalators therein, and on, in or about the adjoining streets and passageways, including claims arising from the use of all equipment, hoists and motor vehicles on the Leased Premises or in connection with the hauling of materials or debris therefrom,

such insurance to have primary plus excess coverage limits of not less than (i) \$1,000,000 for injury to or death of one person, (ii) \$3,000,000 for injury to or death of more than one person, and (iii) \$100,000 for property damage. Such insurance shall provide coverage not only on an accident basis but also on an occurrence basis; and such limits shall be subject to increase as Landlord may from time to time reasonably require;

(b) steam boiler insurance on all steam boilers, pressure boilers or other apparatus in such amounts as Landlord may from time to time reasonably require;

(c) war damage insurance (whenever such insurance shall be written by, through or with the aid of any governmental agency or authority and a state of war or public emergency exists) upon the Improvements and the Building Service Equipment equal to the replacement cost thereof (which shall mean actual replacement costs without deduction for physical depreciation), including foundations and underground installations, or to the maximum amount of coverage which may be obtained, if less than the replacement cost, as aforesaid;

(d) flood insurance in such amount as Landlord may reasonably require, if the Leased Premises shall be situated in an area designated by the United States Government, or any political subdivision thereof, as a "flood hazard area" or by whatever designation the result of which is to require such insurance coverage as

a condition to obtaining or maintaining a federally insured mortgage loan or obtaining a mortgage loan from a federally regulated institution; and

(e) such other forms of insurance (including broadened coverage of existing insurance) and in such amounts as Landlord may from time to time reasonably require consistent with the requirements of institutional lenders with respect to like properties in Boston.

10.4 Every insured loss shall be adjusted and settled promptly by the parties (including the Leasehold Mortgagee if the Leasehold Mortgagee is named as an insured on any policy as permitted by this Lease) and the insurer, provided that as to any claim of \$250,000 or less Landlord's approval shall not be required. The discussions and negotiations with the insurer respecting adjustment and settlement of any claim in excess of \$250,000 shall be primarily conducted by Tenant but any proposed settlement must be finally approved by Landlord, and Leasehold Mortgagee if the Leasehold Mortgagee is named as an insured. All insurance proceeds and all amounts payable as a result of such settlements (collectively, "Proceeds") (less, in either case, costs, fees and expenses incurred in the collection thereof, which shall be paid out of such proceeds) shall be paid to the Depository and applied by it as hereinafter set forth.

10.5 Proceeds from rental insurance maintained pursuant to Section 10.2, less any cost of recovery, shall be applied to Tenant's obligation for the payment of the Base Rent and additional rent and to satisfy any other unpaid obligation of Tenant to Landlord hereunder and Tenant shall be relieved from its obligations to make such payments to the extent that such Proceeds are so applied. The balance of Proceeds, from rental insurance, if any, shall be paid first to the Leasehold Mortgagees as their interest shall appear, in the order of priority of their respective Leasehold Mortgages and then to Tenant provided no Event of Default then exists hereunder.

10.6 Proceeds attributable to any casualty, shall be applied by the Depository to the repair and restoration of Improvements and Building Service Equipment in accordance with the provisions of Article 11 and Article 13 hereof, or if the Proceeds shall be less than \$250,000, or the value equivalent at the time in question, and an Event of Default shall not then exist hereunder, such Proceeds shall be paid to Tenant, which agrees to use the same to accomplish repair or restoration as required by this Lease and to retain the balance, if any, after such repair or restoration as Tenant's absolute and unconditional property subject to the rights of any Leasehold Mortgagee, provided, however, that if this Lease should terminate because of Tenant's default prior to the time

that Tenant has made or completed such repair or restoration, such Proceeds shall be paid to Landlord as its absolute and unconditional property.

10.7 Proceeds from insurance described in clause (a) of Section 10.3 shall be applied against payment of the claim covered by such insurance.

10.8 Other Proceeds shall be applied by the Depository as Landlord and Tenant direct.

10.9 All policies of insurance hereinbefore referred to shall be written in companies authorized to do business in the Commonwealth of Massachusetts satisfactory to Landlord, and shall be written in such form as shall be acceptable to Landlord. All policies of insurance shall provide that any act or negligence of Tenant shall not prejudice the rights of Landlord as a party insured under said policies, and notwithstanding the fact that Landlord has agreed that the proceeds of such insurance shall be used in the restoration or rebuilding of Improvements and Building Service Equipment located upon the Leased Premises. All policies of insurance shall contain an agreement by the insurers that such policies shall not be cancelled or materially changed other than to increase the limits thereof without at least thirty (30) days' prior written notice to Landlord, the Leasehold Mortgagee and such other parties as may be named as insureds thereunder.

Tenant shall deliver to Landlord, on or before the commencement of the term of this Lease, all such policies of insurance (or certificates or certified copies thereof if the original of any such policy is required to be delivered to a Leasehold Mortgagee), in the amounts and covering the risks hereinabove provided, marked "Premium Paid" for all premiums then due, by the company or agency issuing the same, and Tenant shall deliver to Landlord, not less than thirty (30) days prior to the expiration of any then current policy, a new policy (or certificates or certified copies thereof if the original of such policy is required to be delivered to a Leasehold Mortgagee) in replacement thereof, marked "Premium Paid" for all premiums then due, by the company or agency issuing the same. However, if the insurance is carried under a blanket policy, as permitted by Section 10.11 hereof, Tenant may deliver certificates thereof, specifying the amount of insurance allocated to the Property in lieu of the original policy, as long as the possession of such certificates confers upon the holder thereof the same rights as the holder would have if in possession of the original of such insurance policies.

10.10 During the course of any construction of the Initial Improvements or of any construction requiring Landlord's approval under Section 8.1 hereof, and in any other situation when such coverage may be appropriate, Tenant shall carry and pay, or cause to be carried and paid for (i) appropriate builder's risk insurance and (ii) owner's contingent or protective liability insurance

naming Landlord as an additional insured covering claims not covered by or under the terms of the above-required comprehensive public liability insurance, with combined single limit coverage of not less than One Million Dollars (\$1,000,000.00).

In addition thereto, at any other time when Tenant maintains employees incident to operations on the Property, Tenant shall also carry and pay for, or cause to be carried and paid for, workers' compensation insurance in statutory amounts covering all persons (other than employees of Landlord, if any), with respect to whom death or injury claims could be asserted against the Property or any part thereof, or the interests of Landlord or Tenant therein.

Tenant shall deliver to Landlord certificates of insurance evidencing all workers' compensation insurance policies and renewals thereof, promptly as and when such policies are issued and renewed. Tenant's fulfillment of the statutory requirements relating to self-insurance under workers' compensation laws shall, upon proof of such compliance satisfactory to Landlord, be treated as compliance with the workers' compensation insurance requirements of this Article.

10.11 Any insurance required to be furnished by Tenant may be effected by a policy or policies of blanket insurance, provided, however, that the amount of the total insurance allocated to the Property, as herein defined, shall be such as to furnish in protection the equivalent of separate policies in the amounts herein

required, and provided, further, that, in all other respects, any such policy or policies shall comply with the other provisions of this Lease.

10.12 Where the limits of and deductibles under insurance policies required hereunder are not specified herein, such limits and deductibles as are acceptable to the first Qualified Leasehold Mortgagee shall be deemed to satisfy the requirements of this Lease in respect thereof.

10.13 The aforesaid minimum limits of insurance policies shall in no event limit the liability of Tenant hereunder. Insofar as and to the extent that the following provision may be effective without invalidating or making it impossible to secure insurance coverage obtainable from responsible insurance companies doing business in Massachusetts (even though extra premium may result therefrom) Landlord and Tenant mutually agree that, with respect to any loss which is covered by insurance then being carried by them, respectively, the one carrying such insurance and suffering said loss releases the other of and from any and all claims with respect to such loss and they further mutually agree that their respective insurance companies shall have no right of subrogation against the other on account thereof. In the event that extra premium is payable by either party as a result of this provision, the other party shall reimburse the party paying such premium the amount of such extra premium. If at the request of one party, this non-subrogation provision is waived, then the obligation of

reimbursement shall cease for such period of time as such waiver shall be effective, but nothing contained in this Section shall derogate from or otherwise affect releases elsewhere herein contained of either party for claims. Tenant shall bear all costs incurred by either party in complying with this Section 10.13.

ARTICLE 11

DAMAGE TO OR DESTRUCTION OF THE PROPERTY

11.1 Tenant agrees that, in case of damage to or destruction of any part of the Property by fire or otherwise, or should any part of the Property become untenable or unuseable for any reason, this Lease shall not terminate nor shall there be any abatement or reduction in the Base Rent, additional rent or other charges payable by Tenant, nor shall the respective rights or obligations of Landlord and Tenant be affected in any way, except as specifically provided in this Lease.

The terms "damage or destruction", for the purposes of applying this provision of this Lease, shall refer to any condition requiring correction to make the Property, or any part thereof, tenantable or useable for its intended purposes.

11.2 Tenant agrees that in the event of any damage or destruction Tenant shall promptly notify Landlord. Tenant, at its sole cost and expense, shall promptly repair, restore and rebuild the Property, or cause the same to be repaired, restored and rebuilt, so that, upon the completion thereof, the Property shall have been restored to the condition required immediately prior to

such damage or destruction, with such alterations thereof as may be made by Tenant in accordance with Section 13.2 hereof. The provisions and conditions of Article 13 governing procedures applicable to restoration, changes or alterations of Improvements shall be applicable to work required to be done under this Article.

11.3 All Proceeds (except as otherwise provided in Section 10.5 with respect to rent insurance) shall be held and applied to the payment of the cost of repairing, restoring and rebuilding required by this Article in accordance with the provisions of Section 10.6 and Article 13 hereof.

ARTICLE 12

CONDEMNATION

12.1 With respect to any exercise of the power of eminent domain (hereinafter referred to as a "Proceeding") or any agreement in lieu of condemnation (hereinafter referred to in this Article as an "Agreement") between Landlord, Tenant and those authorized or purporting to be authorized to exercise the power of eminent domain, for a conveyance to a condemning authority (such conveyance being hereafter in this Article referred to as "conveyed" or as a "conveyance"), Tenant and the Leasehold Mortgagee, in cooperation with Landlord, shall have the right to participate in negotiations, any Proceeding or any Agreement leading to an Award (as hereinafter defined) to protect their respective interests hereunder. The total Net Award made in such Proceeding or the

consideration paid or payable pursuant to such Agreement (hereinafter collectively or separately referred to as the "Award"), shall be paid by whomever received to the Depository, which shall apply the same as herein provided. The term "Net Award" shall mean the total Award, less all costs, expenses and attorneys' fees incurred in the collection thereof.

12.2 If, during the term of this Lease, the entire Property shall be taken as a result of a Proceeding or an Agreement, this Lease and all right, title and interest of Tenant hereunder shall terminate and come to an end on the date title shall vest in the condemning authority pursuant to such Proceeding or Agreement, but shall not terminate as to the Award. In that event, the rent, additional rent, Impositions or other charges herein provided to be paid by Tenant shall be apportioned to the date title shall vest in the condemning authority in such Proceedings or pursuant to such Agreement and any amounts prepaid by Tenant in excess of its liability based on such apportionment shall be refunded by Landlord to Tenant. As to any such taking, the Net Award shall be distributed as follows:

(a) The following values shall be determined as of the date title is vested in the condemning authority in such Proceeding or pursuant to such Agreement by agreement of the parties or, failing such agreement, by appraisal in the manner set forth in Section 12.2(c) hereof.

(x) The value of Landlord's interest in the Property. This shall be the then fair market value of the Leased Premises as encumbered by this Lease plus the residual value of the Improvements and the Building Service Equipment, all determined as if no taking had occurred.

(y) The value of Tenant's interest in the Property. This shall be the then fair market value of the Improvements and the Building Service Equipment recognizing that the residual value of the Improvements and the Building Service Equipment belongs to Landlord at the expiration of the term of this Lease, plus the value of the leasehold interest under this Lease, taking into account the amounts to be paid and other obligations to be performed by Tenant under this Lease, all determined as if no taking had occurred.

(b) After making the determinations described in subparagraph (a), above, the Net Award shall be applied as follows:

(i) First, to Landlord as a first charge against the Net Award, an amount equal to the present value (determined by using a discount rate equal to the yield on United States Treasury Bonds, having a maturity of 10 years as determined at the auction of said Bonds last preceding the date title is vested in the condemning authority) of the Base Rent for the balance of the term (assuming the term would have expired eighty (80) years after the Lease Commencement Date), but not in any event more than the value of Landlord's interest

determined in accordance with clause (x) of Section 12.2(a) above.

(ii) Second, to the holders of Leasehold Mortgages for the account of Tenant, and as a second charge against the Net Award, an amount equal to the outstanding indebtedness secured by Leasehold Mortgages, said amount to be applied in the order of priority of said Leasehold Mortgages.

(iii) Third, to Landlord or Tenant as the case may be, the amount which is necessary to bring the amounts paid to Landlord under (i) above and to the Leasehold Mortgagees for the account of Tenant under (ii) above into proportion based on the ratio of the value of Landlord's interest in the Property determined in accordance with Subclause (x) of clause (a) above, to the value of Tenant's interest in the Property determined in accordance with subclause (y) of clause (a) above (said ratio being referred to herein as the "Value Ratio").

(iv) The balance, if any, shall be paid to Landlord and Tenant in proportion to the Value Ratio after deducting from Landlord's share the amount paid under (i) above and after deducting from Tenant's share the amount paid under (ii) above and after deducting the amount paid under (iii) above from the share of the party to whom paid.

(c) If Landlord and Tenant are unable to agree on the values to be determined under Section 12.2(a), the values shall be determined by arbitration in the manner hereafter specified.

The party demanding such arbitration shall give written notice thereof to the other party and shall in such notice appoint as arbitrator a person having recognized expertise and not less than five years professional experience in the valuation of downtown, large-scale urban commercial real estate in the City of Boston. Within 20 days thereafter the other party shall by written notice to the original party appoint as arbitrator a second person having the aforesaid qualifications. The arbitrators thus appointed shall appoint a third person having the aforementioned qualifications, and said three arbitrators shall as promptly as possible determine such values, provided that

(i) If the second arbitrator shall not have been appointed as aforesaid the first arbitrator shall alone proceed to determine such matter.

(ii) If the two arbitrators appointed by the parties shall be unable to agree upon the selection of such third arbitrator within fifteen days after the appointment of the second arbitrator, they or either of them shall give written notice of such failure to agree to the parties, and, if the parties fail to agree upon the selection of such third arbitrator within fifteen days after the arbitrators appointed by the parties give notice as aforesaid then the third such

arbitrator shall be the president of the Greater Boston Real Estate Board, or in his failure, refusal or inability to act, the parties may apply for such appointment to a court of competent jurisdiction. The parties shall be entitled to present evidence to the arbitrators in support of their respective positions.

(iii) The arbitrators may not make any determination inconsistent with any of the terms of this Lease or deprive any parties thereto of any right or warranty reserved in this Lease, or decide any matter other than the specific issue of the values to be determined under Section 12.2(a).

(iv) The determination of the majority of the arbitrators (or, if a majority in agreement shall not exist, the average of the values determined by the arbitrators), or of the sole arbitrator, as the case may be, shall be conclusive upon the parties. The arbitrators, or the sole arbitrator, as the case may be, shall give written notice to the parties stating their or his determination, and shall furnish to each party a signed copy thereof.

(v) Each party shall pay the fees and expenses of the arbitrator appointed by such party and one-half of the other expenses of the arbitration properly incurred hereunder.

12.3 If, during the term of this Lease, a part of the Property shall be taken or conveyed, and such taking or conveyance does not diminish any portion of the Buildings constructed or to

be constructed by Tenant pursuant to the provisions of Article 7, this Lease shall terminate as to the part of the Property which is taken, upon the date title is vested in the condemning authority in such Proceeding or pursuant to such Agreement, but this Lease shall continue in full force and effect as to the remainder of the Property. Notwithstanding the foregoing, Tenant hereby waives any and all claims against Landlord or the City of Boston to awards of damages, if any, to compensate for the closing, laying out, or change of grade of any street or other public way within or fronting or abutting on the Leased Premises which pursuant to the Plan as in effect on the date hereof is to be or is closed, laid out, or changed in grade. Landlord hereby waives the right to any share of the award of damages to Landlord's interest in the Property arising out of any taking made by Landlord.

As to any such taking (or portion thereof) for which compensation has not been waived by Tenant, the Net Award shall be distributed as follows:

(i) Subject to the provisions of Article 13 hereof, first to Tenant, to the extent of and as a first charge against the Net Award, an amount not exceeding the actual cost reasonably incurred by Tenant in performing restoration of the Property and any other obligation under the Lease imposed upon Tenant as the result of the taking.

(ii) The balance, if any, of the Net Award shall be paid to Landlord and Tenant in proportion to the Value Ratio.

12.4 (a) If, during the term of this Lease, a part of the Property shall be taken or conveyed, and such taking or conveyance diminishes any portion of the Buildings constructed or to be constructed by Tenant pursuant to the provisions of Article 7 hereof, this Lease shall terminate and come to an end as to the part of the Property which is taken, upon the date title is vested in the condemning authority in such Proceeding or pursuant to such Agreement, but shall not terminate as to the Award for the part of the Property which is taken, and otherwise this Lease shall continue in full force and effect as to the remainder of the Property, subject to the provisions of Section 12.4(b) hereof.

If there is a taking of the type provided for in this Section 12.4, then, as to the part of the Property not so taken, Tenant covenants and agrees, for itself and its successors in interest, that Tenant shall, at its sole cost and expense (subject to reimbursement to the extent hereinafter provided), promptly restore that portion of the Property not so taken to a complete architectural unit for the use and occupancy of Tenant (and those claiming under Tenant) as in this Lease and the Master Deed, as hereinafter defined, or expressed, provided that if in Tenant's reasonable judgment restoration of the balance of any Building which is partially taken is not economically desirable, Tenant may with the approval of Landlord demolish the portion of said Building not so

taken and landscape or put to such other use, and construct such other Improvements as Tenant deems appropriate on, the land under such partial Building, subject to the provisions of Section 13.2 and Landlord's approval of the uses of such other improvements or land, which approval shall not be unreasonably withheld. The provisions and conditions in Article 13 hereof applicable shall apply to the work required to be done under this Section. As to any such taking, the Net Award shall be distributed as follows:

(i) First to Tenant, to the extent of and as a first charge against the Net Award, an amount not exceeding the actual cost reasonably incurred by Tenant in performing its obligations to restore pursuant to this Section or in demolishing the balance of any Building and in landscaping the land or constructing other Improvements thereon, as applicable, and in performing any other obligations under this Lease imposed upon Tenant as the result of the taking.

(ii) The balance of the Net Award, if any, shall be paid to Landlord and Tenant in proportion to the Value Ratio determined in accordance with Section 12.2(a) and if necessary, by arbitration in accordance with Section 12.2(c).

If there is a taking provided for in this Section and the restoration or demolition of the Property results in Improvements of lesser internal area than the Improvements prior to the taking,

Base Rent shall be abated from and after the date of taking by an amount equal to the sum of:

(i) the diminution (measured in square feet) in the internal area to be devoted to residential use in the restored Improvements from that shown on the Program Schedule for the original Improvements attached hereto as Exhibit T, multiplied by \$2.40; plus

(ii) the diminution (measured in square feet) in the internal area to be devoted to office or retail use in the restored Improvements from that shown on said Program Schedule, multiplied by \$3.80; plus

(iii) the diminution (measured in square feet) in the internal area to be devoted to hotel use in the restored Improvements from that shown on said Program Schedule, multiplied by \$3.17.

(b) In the event a taking provided for in this Section 12.4 so diminishes or impairs the use of the Improvements that notwithstanding restoration Tenant would be unable to make any kind of economic use of the remainder thereof, for the purposes permitted by this Lease or contemplated by the Master Deed, Tenant, at its option exercisable by notice to Landlord given not later than ninety (90) days after title is vested in the condemning authority in such Proceeding or pursuant to such Agreement, may terminate this Lease as of such date. The rent, Impositions or other charges herein provided to be paid by Tenant shall be apportioned to said date and any amounts prepaid by Tenant in excess of its liability based on such apportionment shall be refunded by Landlord to Tenant. In the event Tenant elects to so terminate this Lease, the Net Award shall be allocated and distributed in the

manner provided in Section 12.2, except that the value of Landlord's interest in the Net Award determined under Section 12.2(a)(x) shall be reduced by the value of the portion of the Leased Premises, the Improvements and the Building Service Equipment not taken and the amount to be applied under Section 12.2(b)(i) shall be reduced by the discounted fair rental value of the portion of the Leased Premises not taken for the unexpired portion of the term of this Lease.

12.5 If there shall be a taking or conveyance, as aforesaid, of any vault or other space not included within the Leased Premises as above described, or a taking or conveyance which shall result in the removal of projecting portions of any Improvements upon any street for which Tenant is not entitled to compensation as a matter of law, or a taking or conveyance of an underground right-of-way for a subway, conduit or other purpose not necessitating the demolition or substantial alteration of any portion of any of the Improvements or any taking of property not included within the Leased Premises which deprives Tenant of the beneficial enjoyment of any portion of the Improvements, any such taking or conveyance shall not be treated as a taking of any part of the Leased Premises or the Property for the purposes of this Article, this Lease shall not be affected by any such taking or conveyance of the nature in this Section 12.5 referred to, any alteration required because of a taking or conveyance of the nature in this Section 12.5 provided, shall be done by Tenant, and the provisions

of this Article 12 shall apply to the distribution of the Net Award and the provisions of Article 13 shall apply to any alteration required to be done under this Section.

12.6 If the use of the Leased Premises or the Improvements, or any part thereof, shall be taken by the exercise of the power of eminent domain for a period of time, definite or indefinite, whether or not for the entire unexpired portion of the term of this Lease or for a period greater than the same, this Lease shall, nevertheless, continue in full force and effect and Tenant shall have the right (except as hereinafter provided) to receive the entire Award (which Award, in the case provided for by this Section 12.6, is called the "Use Award") which is allocable to that part of the unexpired portion of the term of this Lease to which the Use Award relates. Tenant shall have no rights against Landlord by reason of such taking, including, without limitation, any right to an abatement of rent or any other charges payable by Tenant, or the performance of any obligation to be performed by Tenant, and the rights and liabilities of Landlord and Tenant to each other shall be the same as if there had been no such taking. Notwithstanding the foregoing, Tenant and the Leasehold Mortgagee, in cooperation with Landlord, shall have the right to participate in negotiations relative to any such taking or the Use Award in order to be certain that their respective interests thereunder are

protected, with all cost and expense thereof to be a first charge against the Use Award.

The Use Award shall be paid, however, by Tenant to The Depository for application, as hereinafter set forth, after deduction therefrom of all cost and expense reasonably incurred incident to obtaining such Use Award.

The Use Award shall be held and disbursed as follows:

(a) If the same is payable in monthly or other periodic installments, such installments shall as received by the Depository be applied on account of, and to the extent of, Tenant's obligations on account of annual rental and proportionate shares of other charges payable by Tenant on account of such period; and the dollar value of obligations to be performed by Tenant shall, on a proportionate basis, also be satisfied from such periodic installments.

Any balance of such periodic installments remaining shall be paid to Tenant, except that if such taking shall be for a period extending beyond the expiration of the term of this Lease, Landlord shall be entitled to the entire Use Award attributable to the period after such expiration.

(b) Where the Use Award is in a lump sum or payable in installments less frequently than quarterly, the lump sum or other installments, together with investment earnings thereon, if any, shall be divided by the number of months included in the period for which such Award has been made and the

quotient thereof shall be applied monthly, in accordance with subparagraph (a) above.

(c) To the extent an Use Award is allocable to the cost of repairs and restoration following the termination of a temporary taking prior to the expiration of this Lease, the same shall be treated as Proceeds, within the meaning of Article 13 below, and applied consistent therewith.

ARTICLE 13

CONDITIONS GOVERNING REPAIR, RESTORATION, CHANGES AND ALTERATIONS

13.1 Whenever, under the provisions of Article 11 or Article 12 of this Lease, Tenant shall be obligated to restore, rebuild, repair, or make alterations to the Property, if the cost of the work estimated by Tenant will exceed \$250,000, (or the value equivalent at the time in question), the amount of the Proceeds, or the amount of the Net Award (which amounts are hereinafter collectively referred to in this Article as the "Amounts"), as the case may be, shall be held and disbursed in accordance with the following provisions:

(a) Amounts on account of any casualty loss, Proceeding or Agreement, (hereinafter collectively referred to as the "Event"), shall be delivered to the Depository as soon as available and, unless Tenant satisfies the requirements of

clause (c) below, prior to commencement of the work of repair and restoration (hereinafter referred to as the "Work").

(b) Tenant shall submit to Landlord and to the holder of a first Leasehold Mortgage, for the approval of Landlord and said holder, a schedule of the estimated cost of the Work to be performed in accordance with the plans and specifications approved by Landlord pursuant to Section 13.2. and approved by said holder. To the extent feasible, said plans and specifications shall provide for such Work that, upon completion thereof, the Improvements shall be at least equal in value and general utility to the Improvements which were on the Leased Premises prior to the Event.

(c) Before the commencement of the Work, Tenant shall furnish evidence satisfactory to Landlord and to said holder that Tenant has available to it funds at least equal to the amount by which the estimated cost of the Work, as determined by Landlord on the basis of Tenant's estimate as approved by Landlord, exceeds the Amounts theretofore delivered to the Depository under Section 13.1(a), it being understood that if Tenant is unable to provide said satisfactory evidence of available funds, Tenant shall be required to deliver said funds to the Depository prior to commencement of the Work.

(d) During the progress of the Work, Tenant shall submit to Landlord and the Depository, at periodic intervals, but not more frequently than monthly and with at least seven

(7) days prior notice, a certificate approved as to accuracy by any consultant engaged by Landlord under subparagraph (f) of this Section 13.1 and approved as to the progress of the work indicated therein by the Architect or Tenant's engineer, showing the cost of labor and materials incorporated into the Work, or suitably stored at the Leased Premises (herein, "hard costs"), during the period specified in the certificate and the amount properly due and owing to contractors and suppliers on account thereof and to others for architectural, engineering and other so-called "soft costs", which period shall not include any part of the period covered by any other such certificate, and Depository, upon receipt of such certificate and approval(s) thereof by the Architect or Tenant's engineer as to the hard costs shown therein and by any consultant engaged by Landlord as aforesaid, shall pay to Tenant, from the deposit, if any, made with it by Tenant, and, upon the exhaustion thereof, from the Amounts, ninety percent (90%) of the lesser of such hard costs or amounts due and owing to contractors and suppliers on account thereof (disregarding any retainage which Tenant may have the right to withhold from amounts due and owing to contractors and suppliers, but which shall include, in making such computation, amounts due and owing to contractors and suppliers on account of work previously done and certified but, as to which, ninety percent (90%) payment thereof has

not been made) and 100% of said soft costs, all as shown by such certificate. When required by Landlord or said holder and as a condition to any payment by Depository, evidence satisfactory to Landlord and said holder shall be furnished to the effect that the Depository is holding sums so deposited and Amounts remaining undisbursed which, when added to funds available to Tenant, are sufficient for the payment of all remaining costs of the Work (giving in such reasonable detail as said holder may require an estimate of the cost of such completion). If such evidence shall indicate the Depository is not holding funds which are so sufficient, Tenant shall forthwith deposit with the Depository the amount of the deficit, which it shall hold and disburse as above set forth. Such certificate shall also state that (i) all of the work completed has been done in compliance with the approved plans and specifications, if any be required under subparagraph (a) of this Section 13.1, and (ii) the sum requested is justly required to reimburse Tenant for payments by Tenant to, or is justly due to the contractor, subcontractors, materialmen, laborers, engineers, architects or other persons rendering services or materials for the Work (giving a brief description of such services and materials), and that when added to all sums previously paid out by

Depository (less retainages) does not exceed the value of the Work done to the date of the certificate.

(e) Upon completion of the Work, and delivery to Landlord and Depository of a certificate from Tenant that the Work has been completed and all bills for labor and materials incurred in connection therewith have been paid, supported by a surety company bond or title evidence for which provision is hereinafter made, assuring such payment, together with a certificate from the Architect or Tenant's engineer that the Work has been substantially completed in accordance with the Final Working Drawings and Specifications (as amended, with Landlord's approval), the Depository shall, in the case of Amounts which are Proceeds of insurance, pay the balance in its possession to Tenant, and, in the case of the Proceeds of any Proceeding or Agreement, apply the balance first to reimbursement to Tenant for any amounts required to be deposited by Tenant under (c) or (d) and then to Landlord, Tenant and anyone claiming by, through or under Tenant (including the Leasehold Mortgagee), those portions of any balance in Depository's possession to which the respective parties may be entitled pursuant to Section 12.3(ii) or Section 12.4(a)(ii).

(f) If Landlord determines that, prior to giving its approval to any plans and specifications or estimated schedule of costs, or before honoring certificates calling for payment from the funds to be deposited with Landlord, it

is appropriate to retain, for itself, independent professional assistance of an architectural or engineering consultant, Landlord shall have the right so to do, and, if Tenant shall not be proceeding as required hereunder with respect to prosecution of the Work, the reasonable fees and expenses of such consultant for such services shall be paid by Tenant and shall be treated as a part of the cost of the Work in determining amounts required to be made available for such purposes.

13.2 Any restoration, rebuilding, repair, or alteration undertaken by Tenant pursuant to Article 11 or 12 of this Lease the cost of which will exceed \$250,000 (or its value equivalent at the time in question) or any construction requiring approval of Landlord under Section 8.1 hereof shall produce Improvements substantially conforming to the Final Drawings and Specifications, or in accordance with such amendments thereto as from time to time Tenant may propose, it being expressly agreed that in connection with any restoration and rebuilding to be made by Tenant hereunder (including restoration and rebuilding the cost of which will not exceed \$250,000, or its value equivalent at the time in question), Tenant may make amendments to said Final Drawing and Specifications, provided that in connection with such amendments Tenant shall comply with the provisions of the Design Review Procedure and Section 8.1, to the extent applicable. Landlord acknowledges that any restoration or rebuilding of the Initial Improvements may

require the issuance to Tenant of various federal, state and municipal permits and approvals, many of which depend upon examination of environmental impacts in existence at the time. Accordingly, Landlord shall recognize in the Design Review Procedure in respect of the plans for such restoration or rebuilding all reasonable limitations or conditions imposed by such environmental review or in any such permit or approval. The provisions of Sections 7.6, 7.7(c) and 7.8 through 7.13, inclusive, of this Lease shall be applicable to such restoration, rebuilding, repair, or alteration referred to in this Section 13.2.

13.3 Reconstruction, demolition, subtractions, additions, extensions or changes which Tenant proposes to make in accordance with the terms of Article 8 hereof, shall be subject to this Article, by which it is intended that such changes or alterations shall be treated as being attributable to an Event, within the meaning of Section 13.1 hereof, the changes or alterations shall be treated as Work within the meaning of Section 13.1, and all requirements in Section 13.1, dealing with the conditions under which the Work may proceed, shall be applicable to such changes or alterations, except that no deposit need be made with the Depository if, in fact, the changes or alterations proposed do not arise from an Event of Default.

13.4 As to all Work governed by this Article (including Article 11 Work) Tenant shall promptly commence and diligently complete the same within a reasonable time, subject only to delays

in the receipt of necessary governmental approvals to proceed with such work, delays experienced in pursuing claims for Amounts or occasioned by timing of receipts of Amounts, claims arising from an Event, delays due to causes referred to in Section 7.12, but financial inability (except delays experienced in pursuing claims for Amounts) to proceed shall never be treated as a cause beyond Tenant's control.

13.5 Whenever payments are made to or for the account of Tenant under this Article, Landlord and/or the Depository shall be entitled to require that (i) each request for payment shall be accompanied by waivers of lien effective contemporaneously with payment satisfactory to Landlord and/or the Depository covering that part of the work for which payment or reimbursement is being requested and by a search prepared by a title company or licensed abstractor or by other evidence satisfactory to the Landlord and/or Depository, that there has not been filed with respect to the Leased Premises any mechanics' or other lien or instrument for the retention of title in respect of any part of the work not discharged of record; and (ii) the request for any payment after the Work has been completed shall be accompanied by a copy of any certificates required by law to render occupancy of the Leased Premises legal.

13.6 Upon the completion of the Work and payment in full therefor, Depository will pay the amount of any such proceeds then

or thereafter in the hands of Depository to Tenant, provided, however, that if Depository has received notice from a Qualifying Leasehold Mortgagee holding the first mortgage that the excess proceeds should be paid over to it, then Depository shall so pay such proceeds to such Qualifying Leasehold Mortgagee.

ARTICLE 14

WASTE

14.1 Tenant covenants not to do or suffer any waste or damage, disfigurement or injury to the Property, or permit or suffer any overloading of the floors of the Improvements thereof.

ARTICLE 15

INSPECTION OF PREMISES

15.1 Tenant agrees to permit Landlord, and its authorized representatives, to enter the Property at all times during usual business hours for the purpose of inspecting the same and, for the purpose of making any necessary repairs to the Property or performing any work therein that Tenant has failed to make or perform and which Landlord may determine to be necessary to comply with any laws, ordinances, rules, regulations or requirements of any public authority or to prevent waste or deterioration in connection with the Property. Landlord shall not be entitled to exercise rights hereunder other than inspection except after notice to Tenant in accordance with Article 18 and the expiration of any grace periods available to Tenant or except where Landlord shall determine that prompt attention is required to prevent injury to

persons or property or to the Improvements, in which latter situation Landlord shall give to Tenant such notice, if any, as may be appropriate in the circumstances.

Nothing herein shall imply any duty upon the part of Landlord to do any such work which, under any provision of this Lease, Tenant may be required to perform, and the performance thereof by Landlord shall not constitute a waiver of Tenant's default in failing to perform the same.

Landlord may, during the progress of any work performed by it on the Leased Premises, keep and store upon the Leased Premises, in a manner that will not interfere substantially with the rights of any subtenant, all necessary materials, tools and equipment. Landlord shall not, in any event, be liable for inconvenience, annoyance, disturbance, loss of business, or other direct or consequential damage to Tenant by reason of making repairs or the performance of any work on the Leased Premises, or on account of bringing materials, supplies and equipment onto or through the Leased Premises during the course thereof, and the obligations of Tenant under this Lease shall not thereby be affected in any manner whatsoever.

15.2 Landlord is hereby given the right during usual business hours to enter the Property during the term for the purpose of showing the same to prospective purchasers or others, where the reasonable business purposes of Landlord make such display appropriate. Where, under any provision of this Article 15, access is

sought by Landlord to areas not normally accessible to the public, Landlord shall give Tenant forty-eight (48) hours' prior notice before entering the Property and Tenant shall make such areas available for entry by Landlord.

ARTICLE 16

PAYMENTS TO PUBLIC UTILITIES

16.1 Tenant shall pay or cause to be paid when due all use and consumption charges and service fees and the like for all public utilities used upon or furnished to the Property during the term hereof, including, without limitation, charges for water, gas, electricity and telephone service.

16.2 In addition to paying for all utility use and consumption charges and service fees as hereinabove required, Tenant shall also, at its sole cost and expense, procure any and all necessary permits, licenses or other authorizations required for the lawful and proper installation and maintenance upon the Property of poles, wires, pipes, conduits, tubes and other equipment and appliances for use in supplying any utilities servicing the Property.

ARTICLE 17

LANDLORD'S RIGHT TO PERFORM TENANT'S COVENANTS

17.1 Tenant covenants and agrees that, if it shall at any time fail to pay any Imposition Tenant is obligated to pay pursuant to the provisions of Article 4 hereof, or to take out, pay for, maintain or deliver any of the insurance policies

provided for in Article 10 hereof, or shall fail to make any other payment, perform any other act or comply with any other covenant on its part to be made, performed or complied with as in this Lease provided, and in any case such failure shall have continued beyond any grace, permitted delay or notice period herein, Landlord shall have the right, without any obligation so to do, without waiving Landlord's other rights or remedies hereunder and without notice to or demand upon Tenant in an emergency, or otherwise after ten (10) days' notice, and without waiving, or releasing Tenant from, any obligations of Tenant in this Lease contained, pay any Imposition, effect any such insurance coverage and pay premiums therefor, and may make any other payment, perform any other act or comply with any other covenant on the part of Tenant to be made, performed and complied with, as in this Lease provided, in such manner and to such extent as Landlord may deem desirable, and, in exercising any such rights, pay necessary and incidental reasonable costs and expenses, and employ counsel and incur and pay their reasonable fees and expenses.

17.2 Tenant shall on demand reimburse Landlord for all amounts expended by or on behalf of Landlord under Section 17.1 and the same shall be treated as additional rent hereunder. Interest thereon at the rate hereinafter set forth shall be paid thereon from the date Landlord shall make any such expenditure.

ARTICLE 18

LANDLORD'S REMEDIES AND BREACH

18.1 Upon an "Event of Default" (as defined herein) Landlord shall have the following remedies, in addition to all other rights and remedies provided by law or otherwise provided in this Lease, to which Landlord may resort cumulatively, or in the alternative and in any order:

(a) Landlord may, at Landlord's election, keep this Lease in effect and enforce all of its rights and remedies under this Lease, including the right to recover the rent and other sums as they become due by appropriate legal action.

(b) Landlord may, at Landlord's election, terminate this Lease by giving Tenant written notice of termination. On the giving of the notice, in accordance with the terms of this Lease, all of Tenant's right in the Property shall terminate. Promptly after notice of termination, Tenant shall surrender and vacate the Property in broom clean condition, and Landlord may re-enter and take possession of the Property and eject Tenant, or any other person or persons claiming any right under or through Tenant or eject some and not others or eject none. This Lease may also be terminated by a judgment specifically providing for termination. Any termination under this Section shall not relieve Tenant from the payment of any sums then due to Landlord or from any claim for damages or rent previously accrued or then accruing against Tenant. In no event shall any one or more of the following

actions taken by Landlord, after the occurrence of an Event of Default, in the absence of a written election by Landlord to terminate this Lease, constitute a termination of this Lease:

(i) appointment of a receiver in order to protect Landlord's interest hereunder;

(ii) consent to any subletting of the Property or assignment of this Lease by Tenant, whether pursuant to the provisions hereof with relation to assignment or subletting, or otherwise;

(iii) any other action by Landlord or Landlord's agents intended to mitigate the adverse effects of any breach of this Lease by Tenant, including, without limitation, action to maintain and preserve the Property or any action taken to relet the Property, or any portions thereof, for the account of Tenant and in the name of Tenant.

(c) Landlord may at Landlord's election re-enter and take possession of the Property, and without terminating this Lease, and at any time from time to time, relet the Property or any part or parts of it for the account and in the names of Tenant or otherwise. Tenant shall nevertheless pay to Landlord on the due dates specified in this Lease all sums required of Tenant under this Lease, plus Landlord's expenses, less the proceeds of any such reletting and all other net operating revenues. No act by or on behalf of Landlord, including those described in subparagraphs

(b)(i), (ii) and (iii) above, under this provision shall constitute a termination of Tenant's right to possession under this Lease unless Landlord gives Tenant written notice of termination.

(d) In the event Landlord terminates this Lease, Landlord shall be entitled at Landlord's election to damages in the following sums:

(i) the worth at the time of award of the unpaid rent which has been earned at the time of termination; plus

(ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the fair market rental value reasonably achievable for such period; plus

(iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award (assuming the term would have expired eighty (80) years after the commencement of the Term) exceeds the fair market rental value reasonably achievable for such period; and

(iv) any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom including without limitation, the following: (v) expenses for cleaning, repairing or restoring the Property; (w) expenses for altering, remodeling or otherwise improving

the Property for the purpose of reletting, including installation of leasehold improvements (whether such installation be funded by a reduction of rent, direct payment or allowance to Tenant, or otherwise); (x) broker's fees, advertising costs, and costs of carrying the Property such as taxes and insurance premiums thereon, utilities and security precautions; (y) expenses in retaking possession of the Property; and (z) reasonable attorney's fees and court costs.

(v) The "worth at the time of award" of the amounts referred to in subparagraphs (i) and (ii) above is computed by allowing interest at the rate hereinafter set forth. The "worth at the time of award" of the amount referred to in subparagraph (iii) above is computed by discounting such amount at the discount rate of the Federal Reserve Bank of Boston at the time of the award.

(vi) The foregoing provisions respecting damages in the event Landlord terminates this Lease shall not be applicable to a Leasehold Mortgagee which has cured a default on the part of Tenant or which has entered into a new ground lease pursuant to the provisions of Section 23.3(h) following a default by Tenant and termination of this Lease by Landlord.

18.2 A breach of this Lease shall exist if any of the following events (severally "Event of Default" and collectively "Events of Default") shall occur:

(a) Tenant shall have failed to pay the Base Rent when and as the same shall be due and payable and such failure shall continue in the case of the first such default during the term for a period of sixty (60) days, and in the case of any subsequent such default for a period of thirty (30) days, after written notice from Landlord in either such case;

(b) Tenant shall have failed to pay any other charge, additional rent, Imposition or any obligation of Tenant requiring the payment of money under the terms of this Lease (other than the payment of Base Rent) for sixty (60) days after written notice from Landlord; or

(c) Tenant shall have failed to perform any term, covenant, or condition of this Lease, to be performed by Tenant, except those requiring solely the payment of money, and Tenant shall have failed to cure the same within sixty (60) days after written notice from Landlord, except that, where such failure could not reasonably be cured within said sixty (60) day period, Tenant shall not be in default, and no Event of Default shall exist, unless Tenant has failed to promptly commence and thereafter be continuing to make diligent and reasonable efforts to cure such failure as soon as practicable; or

(d) Tenant shall have made a general assignment of its assets for the benefit of its creditors; or

(e) Tenant shall have abandoned the Leased Premises; or

(f) (i) A court shall have made or entered any decree or order adjudging Tenant to be bankrupt or insolvent; (ii) a petition seeking reorganization of Tenant or an arrangement under the bankruptcy laws or any other applicable debtor's relief law or statute of the United States or any State thereof is filed against Tenant and not dismissed within sixty (60) days thereafter; (iii) a receiver, trustee or assignee of Tenant in bankruptcy or insolvency or for its property is appointed and not discharged within ninety (90) days thereafter; (iv) a court shall have made or entered any decree directing the winding up or liquidation of Tenant and such decree or order shall have continued for a period of ninety (90) days; or (v) Tenant shall have voluntarily submitted to or filed a petition seeking any such decree or order; or

(g) the sequestration or attachment of or execution or other levy on Tenant's interest in this Lease or the Leased Premises or any Improvements located thereon shall have occurred and Tenant shall have failed to obtain a return or release of such property within sixty (60) days thereafter, or prior to sale pursuant to such levy, whichever first occurs;

(h) Tenant shall have admitted in writing its inability to meet its debts as they mature.

ARTICLE 19

ASSIGNMENT

19.1 This Lease is being entered into as a means of permitting and encouraging the development of the Leased Premises in accordance with the terms hereof and not for speculation in landholding. Tenant acknowledges that, in view of:

(a) the importance of the undertakings set forth herein to the general welfare of the community;

(b) the substantial financing and other public aids that have been and/or will be made available by law, the federal government and the City of Boston for the purpose of making such undertakings possible;

(c) the importance of the identity of the parties in control of Tenant and the Property; and

(d) the fact that a transfer of all or part of the legal or beneficial ownership in Tenant, or any other act or transaction involving or resulting in a significant change in the ownership or distribution of such ownership is for practical purposes a transfer or disposition of the interest in the Property then owned by Tenant;

the qualifications and identity of Tenant are of particular concern to the community and Landlord. Tenant further recognizes that it is because of such qualifications and identity that Landlord is entering into this Lease, and, in so doing, is further willing to accept and rely on the obligations of Tenant for the faithful performance of all undertakings and covenants hereby to

be performed by it.

19.2 For the reasons set forth in Section 19.1 hereof and except as otherwise provided herein in Article 20 hereof and in Article 23 hereof, it is hereby agreed that, commencing on the Lease Commencement Date and continuing until the issuance of all of the Certificates of Completion for the Initial Improvements:

(a) No transfer (by assignment or otherwise) of all or any part of Tenant's rights under this Lease or of Tenant's interest in the leasehold estate created hereby or of any portion of the Property shall be made or suffered.

(b) No transfer or change of legal or beneficial interests in Tenant (or any successor entity to Tenant permitted hereunder) and no transfer of partnership interests in Tenant by sale, pledge or otherwise, shall be made or suffered.

The Prohibitions expressed in (a) and (b) above against transfer of Tenant's interest under this Lease and against transfer of a legal or beneficial interest in Tenant shall not apply to the following:

(i) a transfer by reason of death or incapacity of an individual;

(ii) the granting of Leasehold Mortgages, or to a transfer by the holder of a Leasehold Mortgage or by any party holding in good faith by, through or under a Leasehold Mortgage;

(iii) transfers not exceeding in the aggregate ten percent (10%) of the interests in Tenant (legal or beneficial)

or in any entity having an interest in Tenant;

(iv) transfers by any general partner of RWLP of any interest owned by him to his spouse, children or trusts for the benefit of his spouse or children, but only if after such transfers said general partner retains a general partnership interest in RWLP;

(v) (x) transfer by any general partner of RWLP of his interest therein to any other party or entity provided that at least any one of Norman Leventhal, Edwin N. Sidman, Alan M. Leventhal or Mark S. Leventhal (the "Original Partners") shall remain as the managing general partner of RWLP or alone or in combination with any other remaining Original Partner, shall own not less than a majority of the general partnership interest in RWLP, or (y) the issuance of general partnership interests to Institutions; or

(vi) (v) the issuance or creation of new or additional limited partnership interests in, the admission of new limited partners to, or the transfer of limited partnership interests in, RWLP, Tenant, or in any limited partnership created by Equitable to hold its joint venture interest in Tenant, (w) the creation of a joint venture between RWLP and an Institution in which RWLP is the managing joint venturer, provided simultaneously with each such issuance, creation or transfer the identity of any such new or additional limited partners, or of any such Institutional joint venturer, is made known to Landlord, (x) transfer by Equitable of its

joint venture interest in Tenant to any subsidiary or other person which is controlled by Equitable, (y) the transfer by any general partner of Tenant of all or any portion of its joint venture interest in Tenant to any other general partner of Tenant provided that RWLP shall continue to be the managing general partner of Tenant, or (z) the execution and delivery of any executory contract including, without limitation, purchase and sale agreements, to be consummated after the issuance of Certificates of Completion for the Initial Improvements. For the purposes of this subsection (vi) the term "Institution" shall include any entity with a combined capital and surplus account, capital endowment or net worth of not less than \$50,000,000 provided said entity satisfies all of the other requirements of Section 32.4. An Institution (including, without limitation, Equitable) which has formed a joint venture with RWLP as provided in clause (y) of this subsection (vi), may transfer its joint venture interest to another Institution (the "Transferee Institution") with the prior written consent of Landlord, which shall not be unreasonably withheld or delayed, it being understood that any further transfer by the Transferee Institution of said joint venture interest shall be subject to the restrictions set forth in clauses (i) through (vi) inclusive of this Section 19.2.

Subsequent to the issuance of Certificates of Completion for all of the Initial Improvements (or, in the event separate ground

leases are executed in substitution of this Lease pursuant to Section 23.6, the portion of the Initial Improvements relating to each such separate ground lease), Tenant's interest in this Lease (or the respective separate ground lease executed pursuant to Section 23.6), and the legal and beneficial interest in Tenant, may be freely transferred, in whole or in part, without the consent of Landlord.

No transfer of Tenant's interest under this Lease shall be effective unless accomplished by suitable written instrument recorded in the office in which, by law, records relating to real estate in Boston, Massachusetts, are required to be filed to be effective against bona fide purchasers for value of such property, and a true and correct copy thereof, certified as such by the transferor and the transferee, shall have been sent to Landlord in the same fashion in which notices are required to be given under the terms of this Lease.

19.3 For the purposes of this Article 19:

(a) Tenant agrees that the ownership of this Lease and all of Tenant's right, title and interest in and to the Improvements shall be non-separable, and that an attempt to transfer any of Tenant's right, title or interest in the Improvements shall be null and void and a breach of this Lease, unless accompanied by a transfer and assignment of Tenant's estate under this Lease.

(b) References herein to transfer of Tenant's interest in this Lease or Tenant's estate mean a sale, assignment or other

disposition of the entire interest of Tenant in the Property. Partial transfers (other than subleases permitted pursuant to Section 20.1) shall not be permitted. A sublease of all or substantially all the Property for any material part of the term of this Lease shall, for the purposes of this Article 19, be a transfer.

(c) Any transfer which is not permitted hereby or by Article 20 and which is made without Landlord's consent shall be void and of no force or effect.

ARTICLE 20

SUBLETTING

20.1 Notwithstanding anything in this Lease to the contrary, Tenant may without Landlord's consent sublet any part of the Property at any time and from time to time to such occupancy tenants and upon such terms and conditions as Tenant shall deem appropriate. The preceding sentence shall not refer to a sublease of all or substantially all of the Property for any material part of the term of this Lease, which shall be subject to the provisions of Article 19, nor to a sublease to a party which is an Affiliate of Tenant, which subleases shall be subject to Landlord's prior written approval which shall not be unreasonably withheld. The term "Affiliate" as used in this Section 20.1 shall refer to any person which controls, is controlled by or is under common control with any one of Tenant, Equitable, or The Beacon Companies.

20.2 Landlord hereby agrees, for the benefit of any occupancy tenant under any sublease for use or occupancy of space in or on

the Improvements which meet the following criteria, that, upon termination of this Lease at any time after the issuance of Certificates of Completion for all of the Buildings constituting the Initial Improvements in accordance with Section 7.14 hereof (and notwithstanding any contrary provision required to be included in such leases pursuant to Section 20.3 below, but only as long as such occupancy tenant has satisfied its attornment obligations as provided in said Section 20.3) it will recognize and give effect to all such subleases then in effect which (a) have priority over any Leasehold Mortgage or as to which the holders of any Leasehold Mortgage have entered into an agreement to recognize and give effect to such sublease in the event of a foreclosure of any Leasehold Mortgage and (b) are so-called "net" leases containing requirements for the payment by such occupancy tenant of rental in monthly installments and additional rental for increases in real estate taxes and operating expenses as may have been (at the time of execution of such sublease) customary in leases of first class office building space in the City of Boston. Landlord shall enter into recordable instruments with any such occupancy tenants, as requested by Tenant, embodying the provisions of this Section 20.2 provided that any such instrument requires, as a condition of Landlord's obligations, that such occupancy tenant shall attorn to Landlord simultaneously with such termination, (i.e., each such occupancy tenant shall agree directly with Landlord, by written instrument satisfactory to Landlord, that it will perform all its obligations as subtenant under such sublease for the benefit of

Landlord, as if Landlord were the sub-landlord named in the sub-lease).

Tenant covenants and agrees that in the event of the cancellation or termination of this Lease by reason of an Event of Default prior to the expiration of the term hereof, unless Landlord shall have previously agreed in writing to recognize any such leases or subleases following the expiration or sooner termination of this Lease, Landlord shall have the option to terminate or cancel each such lease or sublease; provided, with regard to (i) leases or subleases which Landlord shall have agreed in writing to so recognize and (ii) leases or subleases which Landlord does not elect to so cancel or terminate, the occupancy tenant under each such lease or sublease shall make full and complete attornment to Landlord for the balance of the term of such lease or sublease with the same force and effect as though said lease or sublease were originally made directly from Landlord to the occupancy tenant.

20.3 Each sublease entered into by Tenant shall contain provisions substantially similar to the following provisions, unless Landlord shall otherwise specifically agree:

"If, at any time during the term of this lease, the landlord of the demised premises shall be the holder of a leasehold estate covering premises which include the demised premises, and if such leasehold estate shall terminate or be terminated for any reason, lessee agrees, at the election and upon demand of any owner of the premises which include the demised premises, to attorn, from time to time, to any such owner, upon the terms and conditions set forth herein, for the remainder of the

term demised by this lease. The foregoing provisions shall inure to the benefit of any such owner, shall apply to the tenancy of the lessee hereunder, and shall be self-operative upon any such demand, without requiring any further instrument to give effect to said provisions. Lessee hereunder, however, upon demand of any such owner, agrees to execute, from time to time, an instrument in confirmation of the foregoing provisions, satisfactory to such owner, in which lessee shall acknowledge such attornment and shall set forth the terms and conditions of its tenancy, which shall be the same as those set forth herein and shall apply for the remainder of the term originally demised in this lease. However, until such owner shall require such attornment, or shall otherwise elect, lessee shall pay to such owner, from and after the time of such termination, the rent and all other charges payable by lessee and shall perform, for the benefit of such owner, all obligations of lessee to be performed under its lease. Nothing contained in this paragraph shall be construed to impair any right, privilege or option of any such owner."

ARTICLE 21

LANDLORD'S SECURITY INTEREST; COVENANT AGAINST ENCUMBRANCES; ASSIGNMENT OF SUBLEASES

21.1 Further to secure the performance of all the obligations of Tenant under this Lease, Tenant hereby grants, bargains, sells and mortgages to Landlord all right, title and interest of Tenant in and to all equipment, goods, chattels and personal property located upon the Property and owned by Tenant, and agrees to execute such financing statements as may be required by the Uniform Commercial Code as enacted and in force in the Commonwealth of Massachusetts, from time to time, to perfect the security interest intended to be created hereby. Tenant hereby assigns to Landlord all the rents, issues, profits and income under all present and future leases or subleases of all or any portion of the Property

to secure the payment of the rents and all other charges payable by Tenant under this Lease, as well as to secure the performance of all the covenants and provisions of Tenant under this Lease, the non-occurrence of conditions under this Lease which confer upon Landlord the right to terminate the same, or cause the termination of the same; and Landlord shall be entitled, as a matter of right, to have a receiver appointed to take possession of the Property with power to collect the rents, issues, profits and income of the Property and relet the same under order of court or otherwise.

Landlord agrees that, until an Event of Default shall occur hereunder, as to which notice has been given and the time within which to cure has elapsed, if any, Tenant may, subject to the rights and obligations of any Leasehold Mortgagee set out under Article 23 hereof (and whether such rights exist under its Leasehold Mortgage or documents given to it as supplemental security for its loan) collect, receive and enjoy the rents, issues, profits and income of the Leased Premises.

21.2 Tenant shall have no right or power to, and Tenant shall not, in any way, encumber the fee simple title of Landlord in and to the Leased Premises or the interest of Landlord in the Improvements and the Building Service Equipment, nor shall such fee simple estate or other interest of Landlord be in any way subject to any claim against Tenant by way of lien, or otherwise, whether arising by operation of law, by express or implied contract or in any other manner, and any such encumbrance or claim by way of lien

or otherwise upon the Leased Premises or the Improvements, whether arising by operation of law, by any act or omission of Tenant or in any other manner, shall accrue only against the leasehold estate of Tenant and the interest of Tenant in the Improvements and the Building Service Equipment.

If any such encumbrance or claim by way of lien or otherwise shall exist or be asserted against the fee simple title of Landlord in and to the Leased Premises or against the interest of Landlord in the Improvements and the Building Service Equipment, then, in addition to any other right or remedy which Landlord may have under this Lease or at law or in equity, Landlord shall have the right, without any obligation so to do, to discharge or pay the same, including the payment of penalties, interest and costs claimed to be due, provided Tenant shall first have been notified of Landlord's intent to take such action and Tenant shall have failed to pay or cause to be discharged such encumbrance or lien within thirty (30) days thereafter. All amounts paid and all costs and expenses incurred by Landlord (including reasonable attorneys' fees) pursuant to the provisions of this Section, together with interest thereon from the date of any payment or expenditure by Landlord at the annual rate hereinafter set forth, shall constitute additional rent hereunder and shall be payable to Landlord on demand.

21.3 Tenant hereby assigns to Landlord all existing subleases affecting the Leased Premises and the Property, or any part hereof, and shall and does hereby assign any future subleases to Landlord upon execution thereof, as further security for the payment of the rent reserved hereunder and for the performance of the covenants and provisions in this Lease contained, reserving, however, the right from time to time to modify such existing and future subleases without Landlord's consent (except for subleases as to which Landlord's consent was required in connection with the original execution thereof pursuant to Section 20.1 or would be required under said Section in respect of said sublease as so modified) provided that, as to subleases which Landlord has agreed to recognize pursuant to Section 20.2, said subleases as so modified shall continue to meet the criteria set forth in clauses (a) and (b) of Section 20.2. Such assignment of future subleases to Landlord shall be in form satisfactory to Landlord, and this assignment and any future assignments shall permit Tenant to continue to collect the rent falling due under such subleases, but not more than one month in advance, so long as there shall be no Event of Default under this Lease.

Tenant agrees to execute such instruments in confirmation of this assignment, containing such terms and provisions as Landlord may reasonably require, consistent with the provisions of this Section 21.3

21.4 The assignment by Tenant of Tenant's interest in any sublease, or the rents payable thereunder, shall not constitute an assumption by Landlord of any obligations of the landlord or sublandlord thereunder, unless and until Landlord shall specifically otherwise elect; and all subleases executed by Tenant shall so provide, unless Landlord shall otherwise consent in writing.

21.5 So long as this Lease shall be in effect the rights and interests granted to Landlord under the provisions of this Article 21 shall in all events be subject and subordinate to the rights and interests of all Leasehold Mortgagees under Article 23 hereof and under all the terms and provisions of such Leasehold Mortgages and any other instrument or agreement given to secure or in connection with their loans to Tenant.

ARTICLE 22

TITLE TO IMPROVEMENTS; SURRENDER OF THE PROPERTY

22.1 Landlord and Tenant acknowledge and agree that title to the Improvements and the Building Service Equipment is, shall be and shall remain in Tenant until the termination of this Lease, however the same occurs. However, Tenant agrees that its interest in the Improvements and the Building Service Equipment shall become subject to the terms and conditions of this Lease and that any grantees or assignees of its interest in the Improvements, the Building Service Equipment or this Lease shall take subject to

and be bound by the terms and conditions of this Lease, expressly including the following provisions:

(a) Subject to the provisions of Article 24 hereof upon the expiration or earlier termination of this Lease, however the same occurs, title to the Improvements and the Building Service Equipment shall automatically vest in Landlord and Landlord shall be the sole and absolute owner thereof, free of any right, title, interest or estate of Tenant therein, without the execution of any further instrument and without payment of any money or other consideration therefor, except, only, that in the event of the termination of this Lease under circumstances allowing the Leasehold Mortgagee to obtain a new lease under the provisions of Section 23.3(h) and if, at that time, the Leasehold Mortgagee shall exercise its rights under said Section 23.3(h), then Tenant's interest in the Improvements and the Building Service Equipment, to the extent then existing, shall automatically pass to, vest in and belong to the Leasehold Mortgagee, or any permitted successor to the Leasehold Mortgagee, until the termination of such new lease, however the same occurs. Landlord and Tenant shall execute such further assurances of title as may be requisite to implement the preceding sentence. Tenant hereby grants, releases, transfers, sets over, assigns and conveys to Landlord all of its right, title and interest in and to the Improvements and the Building Service Equipment effective upon the termination or expiration of this Lease. Nothing herein contained shall adversely affect Tenant's

title to the Improvements and the Building Service Equipment and any right that Tenant may have to quiet enjoyment and possession so long as this Lease shall continue in force and effect. Further, until the termination of this Lease, Tenant alone may claim depreciation of the Improvements and Building Service Equipment for all taxation purposes to the extent that it may legally be entitled to make such claim.

(b) Subject to the provisions of Article 24, Tenant shall, upon such termination, surrender and deliver the Leased Premises and deliver the Improvements and the Building Service Equipment, excepting any subtenants' movable trade fixtures, machinery, equipment and personal property (without any payment or allowance whatsoever to Tenant on account of, or for, the Improvements and the Building Service Equipment or any part thereof) to the possession and use of Landlord, without fraud or delay and in the same order and condition originally constructed, ordinary wear and tear excepted and as from time to time altered not in violation of this Lease or, in the case of Improvements existing on the date hereof, demolished as contemplated by the Design Development, and further subject to damage by fire or other casualty.

(c) Subject to the provisions of Article 24, Landlord, upon termination of this Lease for any reason, may, without notice (any notice to quit or intention to re-enter required by law being expressly waived by Tenant), re-enter upon the Property and possess

itself thereof by summary proceedings, ejectment or otherwise, and may dispossess Tenant and remove Tenant and all other persons and property from the Property which it may elect so to dispossess, to the extent that it has not theretofore otherwise agreed, and may enjoy the Property and have the right to receive all rents and other income from the same, without hindrance or interference from Tenant or anyone claiming by, through or under Tenant. Subject to the provisions of Article 24, any personal property of Tenant remaining on the Property beyond thirty (30) days after termination of this Lease shall be treated as having been abandoned by it and be retained by Landlord as its sole property or be disposed of, without liability or accountability, as Landlord sees fit.

22.2 Tenant shall execute such documentation as Landlord may require to transfer or confirm transfer of title to the Improvements and Building Service Equipment to Landlord, as hereinabove set forth.

ARTICLE 23

LEASEHOLD MORTGAGES

23.1 Notwithstanding any other provisions of this Lease, Tenant shall at all times and from time to time have the right to encumber, pledge, or convey all (or pursuant to Section 23.6 less than all), of its leasehold estate in the Leased Premises, its title to and interest in the Improvements and its title to and interest in the Building Service Equipment by way of one or more bona fide Leasehold Mortgages (and, where appropriate, by grant of

a security interest under the Uniform Commercial Code and by assignment of leases and rents) to secure the payment of any loan or loans obtained by Tenant; provided, however, that Tenant shall give prior written notice to Landlord of its intent to exercise such rights hereunder, including in such notice the name(s) and address(es) of such Leasehold Mortgagee and any other information regarding the Leasehold Mortgage and security documents which Landlord may require.

23.2 (a) If a Leasehold Mortgagee, through the operation of its contract to finance the Improvements and the Building Service Equipment, or by foreclosure or assignment in lieu thereof, acquires Tenant's entire interest in the Property prior to completion of the Initial Improvements (as such completion is determined in accordance with Section 7.14 hereof), and the Leasehold Mortgagee has complied with the provisions of Section 23.3(a) hereof, the Leasehold Mortgagee shall have the following options:

(i) complete construction of the Initial Improvements in accordance with the approved Final Drawings and Specifications (subject to such deviations therefrom as are not in Landlord's reasonable judgment material in nature) and this Lease, and in all respects comply with the provisions of this Lease, or

(ii) with the prior written consent of Landlord, sell, assign, or transfer, Tenant's entire interest in the Property or any portion or portions thereof separately demised under a

ground lease or ground leases created pursuant to Section 23.6 hereof to a purchaser, assignee or transferee acceptable to Landlord who shall expressly assume all of the covenants, agreements and obligations of Tenant under this Lease in respect of the Property by written instrument satisfactory to Landlord and recorded forthwith in the Suffolk County Registry of Deeds, or

(iii) reconvey the entire interest of Tenant in the Property to Landlord.

(b) To obtain the benefit of one of the options under paragraph 23.2(a), the Leasehold Mortgagee must notify Landlord of the option it elects within sixty (60) days after it shall acquire title to or possession of the Property (whichever shall last occur). In the event that a Leasehold Mortgagee elects to complete construction of the Initial Improvements pursuant to subparagraph (a)(i) above, or sells, assigns, or transfers pursuant to subparagraph (a)(ii) above, Landlord shall extend the time limits set forth in this Lease only as shall be reasonably necessary to complete the Initial Improvements, and upon such completion, the Leasehold Mortgagee or purchaser of the leasehold estate, as the case may be, shall be entitled to the same rights, benefits and privileges available to Tenant hereunder, including Tenant's right to Certificates of Completion pursuant to Section 7.14.

23.3 If a Leasehold Mortgagee shall, by written notice to Landlord given within thirty (30) days after the execution, delivery and recording of a Leasehold Mortgage, notify Landlord thereof and of the name and addresses of the Leasehold Mortgagee (and, if it so desires, its counsel) for notice purposes (it being agreed that if an address is given for a Leasehold Mortgagee's counsel as aforesaid, copies of all notices to be sent to such Leasehold Mortgagee shall also be sent to such counsel), and of the recording reference of its Leasehold Mortgage, and with such notice shall furnish to the Landlord a true copy of its Leasehold Mortgage, Landlord agrees that so long as such Leasehold Mortgage shall remain unsatisfied of record, or until written notice of satisfaction thereof is given by the Leasehold Mortgagee to Landlord (whichever shall first occur) the following provisions shall apply:

(a) Landlord shall, promptly upon receipt of a communication purporting to constitute the notice provided for in the foregoing provisions of this Section 23.3, either provide the Leasehold Mortgagee submitting such communication (and each Qualified Leasehold Mortgagee then identified to Landlord) with a written confirmation of the receipt of such communication and that the same constitutes the notice provided for in the foregoing provisions of this Section 23.3, or notify Tenant and such Leasehold Mortgagee

in writing of the rejection of such communication as not conforming with the foregoing provisions of this Section 23.3 and specifying the basis for such rejection, and such Leasehold Mortgagee shall have an additional period of thirty (30) days from the receipt of Landlord's notice to notify Landlord in conformity with the foregoing provisions of this Section 23.3. Each Leasehold Mortgagee which notifies Landlord in conformity with the foregoing provisions of this Section 23.3 is referred to in the following provisions of this Section 23.3 as a "Qualifying Leasehold Mortgagee".

(b) In the event of any assignment of a Leasehold Mortgage or in the event of a change of address for notice purposes of a Qualifying Leasehold Mortgagee or of an assignee of any such Qualifying Leasehold Mortgagee, notice of the new name and addresses (including, if it so desires, that of its counsel) for notice purposes shall be provided to Landlord prior to any such assignee being entitled to receive notices under this Lease.

(c) There shall be no cancellation, surrender, termination or modification of this Lease by joint action of Landlord and Tenant, or termination of this Lease by unilateral action of Tenant under the provisions of this Lease permitting such termination by Tenant, without in each case first securing the prior written consent of each Qualifying Leasehold Mortgagee.

(d) Landlord shall, upon giving to Tenant any notice of default or termination of this Lease or any other notices, reports, instructions or the like, simultaneously give a copy of such notice or document to each Qualifying Leasehold Mortgagee, and no notice of default or termination of this Lease given to Tenant shall be legally effective until a copy thereof has been given by Landlord to each Qualifying Leasehold Mortgagee. Wherever in this Lease notice is to be given to such Qualifying Leasehold Mortgagee, a notice addressed to such Qualifying Leasehold Mortgagee at its address specified in accordance with the foregoing provisions of this Section 23.3 and otherwise complying with the terms of the notice provisions of this Lease shall conclusively be treated as having been "given" within the meaning of the respective provisions calling for notice to each Qualifying Leasehold Mortgagee.

(e) Each Qualifying Leasehold Mortgagee shall have the same period, after such notice has been given to it, for remedying any default or causing the same to be remedied, as is given Tenant after the giving of such notice to Tenant, plus (x) in the case of a default in the payment of the Base Rent, an additional period of thirty (30) days, and (y) in the case of any other default, an additional period of sixty (60) days, and if such default cannot with due diligence be cured within such additional sixty (60) day

period, an additional time thereafter, provided that such cure is initiated during such additional sixty (60) day period and thereafter the curing of the same is prosecuted with diligence, and Landlord shall accept such performance by a Qualifying Leasehold Mortgagee as if performed by Tenant and shall not during such period exercise any of Landlord's remedies set forth in Article 18 hereof.

(f) Upon the happening of any of the Events of Default set forth in subsections (d), (e), (f), (g) or (h) of Section 18.2 of this Lease, Landlord shall give notice thereof to each of the Qualifying Leasehold Mortgagees promptly after Landlord shall have knowledge of the happening of such event.

(g) In the case of any Event of Default by Tenant other than under Sections 18.2(a) or (b) Landlord agrees that it will take no action to effect a termination of this Lease or exercise any other remedy by reason of such Event of Default without first giving to each Qualifying Leasehold Mortgagee a reasonable period of time after notice under either (d) or (f) above to institute foreclosure proceedings, to complete such foreclosure or otherwise to acquire the interest of Tenant under this Lease with diligence and without delay and to cure such default in the case of default which can be cured upon completing such foreclosure, and in the case of a default which by its nature is not susceptible of being cured by any Qualifying Leasehold Mortgagee, upon said Qualifying

Leasehold Mortgagee acquiring the interest of Tenant by foreclosure as aforesaid said default shall be deemed to have been waived; provided, however, (i) that the period for acquiring the interests of Tenant by foreclosure or otherwise, as the case may be, shall be extended for the period during which such action is enjoined or stayed, (ii) that such Qualifying Leasehold Mortgagee shall pay or cause to be paid the Base Rent and other monetary obligations of Tenant under this Lease as the same become due, and to continue good faith efforts to perform all of Tenant's other obligations under this Lease which are susceptible of being performed by such Qualifying Leasehold Mortgagee, during the period of such forbearance, (iii) that nothing herein shall require any Qualifying Leasehold Mortgagee to begin or continue such foreclosure proceedings or preclude Landlord from exercising (subject to the provisions of this Article 23 including, without limitation, Landlord's obligation to give each such Qualifying Leasehold Mortgagee notice and opportunity to cure any such other default) any rights or remedies under this Lease with respect to any other defaults by Tenant during the period of such forbearance, and (iv) any payment to be made or action to be taken by a Qualifying Leasehold Mortgagee under this clause (g) as a prerequisite to keeping this Lease in effect shall be deemed properly to have been

made or taken by said Qualifying Leasehold Mortgagee if such payment is made or action taken by an agent of said Qualifying Leasehold Mortgagee or a nominee which is wholly-controlled by said Qualifying Leasehold Mortgagee.

(h) In the event of a termination of this Lease for any reason, other than by expiration of the term, the Qualifying Leasehold Mortgagee holding the senior leasehold mortgage of the Leased Premises shall have the right, in addition to the foregoing rights and any other rights available to such Qualifying Leasehold Mortgagee, to elect to demand a new lease of the Leased Premises, exercisable by notice in writing to Landlord within sixty (60) days after the giving of notice by Landlord to each Qualifying Leasehold Mortgagee of such termination, for the balance of the term hereof effective as of the date of such termination, at the Base Rent and additional rent and upon all of the other terms, provisions, covenants and agreements set forth in this Lease except that Landlord shall not be required to warrant and defend the right of possession of the tenant under such new lease against Tenant herein or anyone claiming by, through or under Tenant; provided, that, concurrently with the delivery of such notice, such Qualifying Leasehold Mortgagee shall have performed and thereafter shall continue to perform all obligations of Tenant hereunder capable of being performed by such Qualifying Leasehold Mortgagee which would have accrued hereunder had this

Lease remained in force until the time of such delivery. The parties shall act promptly after such notice and performance to execute such new lease. Any such new lease may, at the option of such Qualifying Leasehold Mortgagee, name as tenant a nominee of such Qualifying Leasehold Mortgagee. If as a result of any such termination Landlord shall succeed to the interests of Tenant under all subleases of the Leased Premises or any portion thereof, and provided the Qualifying Leasehold Mortgagee or said tenant shall have performed all obligations of Tenant hereunder capable of being performed by such Qualifying Leasehold Mortgagee, Landlord shall simultaneously with the delivery of such new lease execute and deliver an assignment of all such interests to the tenant under the new lease, and pay over to said tenant all security deposits, insurance and eminent domain proceeds and all other funds then held by Landlord in which Tenant had any interest, which funds shall be held or applied by the new tenant in accordance with the provisions of this Lease.

(i) Each Qualifying Leasehold Mortgagee shall be given notice of any arbitration or appraisal proceedings under the provisions of this Lease, and shall have the right to intervene therein and be made a party to such proceedings, and the parties hereto do hereby consent to such intervention.

23.4 It is expressly understood that Landlord shall not have the right to approve any Leasehold Mortgagee or the terms and conditions of any Leasehold Mortgage, provided said Leasehold

Mortgagee and Leasehold Mortgage satisfy the requirements of Section 32.5 hereof. The rights in this Article 23 provided may be exercised only by such Institutions as are mortgage holders which become Qualifying Leasehold Mortgagees and in the case of the right to a new lease, shall be given to said Qualifying Leasehold Mortgagees in the order of priority of the respective Leasehold Mortgages held by them. A deed of trust or other form of security deed shall be treated as the equivalent of a mortgage.

23.5 Landlord and Tenant acknowledge and agree that a Qualifying Leasehold Mortgagee may require modifications to this Lease for the purpose of incorporating provisions providing additional protection of its Leasehold Mortgage or otherwise facilitating the "financeability" of this Lease. Landlord agrees not to withhold unreasonably its agreement to enter into such requested modifications provided that, in the sole opinion of Landlord, the same shall in no way affect the term, Base Rent or additional rent or otherwise in any material respect adversely affect any of the rights or interests of Landlord hereunder. Without limitation, before giving any such agreement, Landlord may require reasonable changes to any proposed modification. Landlord and Tenant further acknowledge and agree that the fact that a Qualifying Leasehold Mortgagee is a party to the joint venture constituting the Tenant hereunder, participates in any way in the business of Tenant, or holds any other interest in Tenant or the Leased Premises shall not diminish or otherwise affect its rights

and benefits as a Qualifying Leasehold Mortgagee hereunder, including without limitation, its rights to separate notices as provided herein.

23.6 Landlord agrees that in order to enable Tenant to separately finance the development of portions of the Premises or to facilitate the completion of such portions by a Leasehold Mortgagee pursuant to clause (ii) of Section 23.2(a), at Tenant's request Landlord shall substitute for this Lease separate ground leases of portions of the Premises, the configuration of such portions to be determined by Tenant so long as in the aggregate said portions constitute the entire Premises, and in connection therewith shall execute such termination agreement, new ground leases and related documents as may be required to effectuate such substitution, provided that such substitution and the documents related thereto shall not in any material respect adversely affect any of the rights or interests of Landlord hereunder, it being understood, without limitation, that a default under any such separate ground lease shall be a default under each of the other separate ground leases.

ARTICLE 24

CREATION OF CONDOMINIUM; PURCHASE BY TENANT OF LANDLORD'S INTEREST IN RESERVED AND HOTEL UNITS

Reference is made to the fact that the parties contemplate, upon issuance by Landlord of the Certificates of Completion referred to in Section 7.14 hereof, (i) submitting the Leased Premises and the Initial Improvements to the provisions of M.G.L. Chapter 183A so as to create a condominium (herein the "Condominium") consisting of the three units described in the form of Master Deed attached hereto as Exhibit F and referred to herein as the Reserved Unit, the Office/Retail Unit and the Hotel Unit (individually, a "Unit", and collectively, the "Units"), (ii) the purchase by Tenant of Landlord's Interest in the Reserved Unit and the Hotel Unit, and (iii) the lease by Landlord to Tenant of Landlord's interest in the Office/Retail Unit, all on the terms and conditions set forth below.

On the 30th day (or if said 30th day is not a business day, on the first business day thereafter), after the earliest date on which all of the Certificates of Completion referred to in Section 7.14 hereof shall have been issued, the parties shall, at Tenant's expense (except for the payment or discharge of encumbrances or claims against the Units not referred to in clauses (a) through (f) below) take such steps as shall be necessary to create the Condominium, including the execution and recording by Landlord of the Master Deed (including a set of floor plans and related

certificates satisfying the requirements of paragraph (f) of M.G.L. Chapter 183A §8, to be prepared by Tenant at its expense), the formation of the unincorporated association of Unit owners, and the recording of the By-Laws thereof attached hereto as Exhibit G.

The respective purchase prices of Landlord's Interest in the Reserved Unit and Hotel Unit shall be paid by execution and delivery by Tenant to Landlord of (i) "interest only" promissory notes in the form of Exhibit I in respect of the purchase price for Landlord's Interest in the Reserved Unit, and in the form of Exhibit J in respect of the purchase price for Landlord's interest in the Hotel Unit, and (ii) as security for said notes, a first mortgage in the form of Exhibit K attached (the "Hotel Unit Mortgage"). Tenant shall have the right, at its option, exercisable at any time after the discharge of all mortgages on the Hotel Unit given as security for loans provided by Equitable and other Institutions to finance the original construction and development of the Property, to provide Substitute Collateral in lieu of the Hotel Unit Mortgage, said Substitute Collateral to be pledged to Landlord pursuant to a pledge agreement in the form attached hereto as Exhibit L. "Substitute Collateral" shall mean United States Treasury Bonds having a maturity of 10 years or less (provided that no such Treasury Bond shall have a maturity later than the maturity date of the note for which it is pledged as security), and having an aggregate face value not less than 110% of the outstanding principal balance of the note for which it is

to be pledged as security.

Said interests in the Units shall be conveyed to Tenant by Units Deeds in the form attached hereto as Exhibit M, which shall convey a good and clear record and marketable title to the Reserved Unit and the Hotel Unit, subject only to the following matters:

(a) the rights, easements, agreements and restrictions set forth or referred to in Exhibit B;

(b) easements and restrictions hereafter affecting the Leased Premises created by Landlord at any time with Tenant's approval;

(c) real estate taxes assessed upon the Leased Premises not yet due and payable;

(d) water and sewer use charges, and balances, if any, remaining due and unpaid on account of betterment assessments on the Leased Premises and other Impositions the payment of which is Tenant's obligation under this Lease;

(e) applicable laws and regulations of any governmental authority in effect at the time of such conveyances; and

(f) easements and restrictions imposed upon, and changes in the Leased Premises which may have occurred, as a result of takings by eminent domain.

There shall be no closing adjustments, other than for the rent payable by Tenant hereunder for the month in which said conveyances are made.

Provided Tenant is not in default hereunder which default has not been cured by Tenant or a Qualifying Leasehold Mortgagee within any grace period in favor of Tenant or such Qualifying Leasehold Mortgagee or waived pursuant to Section 23.3(g), Landlord shall have no right or power to, and Landlord shall not, in any way, encumber the fee simple title of Landlord in and to the Leased Premises or the interest of Landlord in the Improvements and the Building Service Equipment.

If any such encumbrance or claim by way of lien or otherwise shall exist or be asserted against the fee simple title of Landlord in and to the Leased Premises or against the interest of Landlord in the Improvements and the Building Service Equipment, except for Impositions which Tenant is obligated to pay pursuant to the provisions of this Lease, then, in addition to any other right or remedy which Tenant may have under this Lease or at law or in equity, Tenant shall have the right, without any obligation so to do, to discharge or pay the same, including the payment of penalties, interest and costs claimed to be due, provided Landlord shall first have been notified of Tenant's intent to take such action and Landlord shall have failed to pay or cause to be discharged such encumbrance or lien within thirty (30) days thereafter, provided that if the existence of any such encumbrance or claim by way of lien shall jeopardize Tenant's interest hereunder or the consummation of the transaction contemplated by this Article 24, Tenant may pay the same upon five (5) days' notice to

Landlord that the Tenant is about to do so (and without any such notice under circumstances constituting an emergency in regard to the aforesaid jeopardy); further provided, however, that if Landlord contests, by appropriate legal proceedings, the validity of any such encumbrance or claim, Tenant shall not have the right to pay or discharge the same until there shall be a final determination of said proceedings in favor of the validity thereof. All amounts paid and all costs and expenses incurred by Tenant (including reasonable attorneys' fees) pursuant to the provisions of this Section, together with interest thereon from the date of any payment or expenditure by Tenant at the annual rate hereinafter set forth, shall be payable to Tenant on demand and Tenant may deduct the entire amount thereof together with interest thereon as aforesaid from all Basic Rent and additional rent accruing hereunder and under the lease to be given hereunder of the Office/Retail Unit.

If Landlord shall be unable to give title or to make conveyance as above stipulated, Landlord shall convey such title as it then has, provided Tenant elects to accept the same, and in such event Tenant shall be entitled to a credit against the purchase price of each Unit in an amount equal to the diminution, if any, in the fair market value of the Unit on account of matters affecting such title which are not permitted under the foregoing clauses (a) through (f) inclusive, such credit to be in addition to all other applicable credits. In the event Landlord and Tenant are unable to agree upon said diminution in fair market value, the

same shall be determined by arbitration in accordance with the arbitration procedure set forth in Section 12.2 hereof.

If at the time of conveyance, either or both of the Units or the common areas of the Condominium shall be subject to any matter described in clause (f) above, Tenant shall be entitled to the diminution, if any, in the fair market value of the Units on account of any such matters referred to in clause (f), said diminution to be determined by capitalizing at 12½% the amount by which Base Rent in respect of each such Unit so affected has been abated pursuant to Section 12.4(a) hereof.

The term of the Office/Retail Unit Ground Lease of even date herewith shall commence simultaneously with the aforesaid purchase by Tenant of the Reserved Unit and Hotel Unit, and concurrently therewith the parties shall cause the association of unit owners of the Condominium to execute and deliver to Tenant (i) licenses in the forms of Exhibits N, O and P for the exclusive use by Tenant and those claiming under it of certain parking spaces within the Condominium garage, (ii) a lease of the portions of the common areas of the Condominium designed for use as a passenger ferry terminal and the waiting and boarding areas associated therewith, in the form attached hereto as Exhibit Q, and (iii) a lease of the portions of the common areas of the Condominium designed for use as a pleasure boat marina and as a dock for dinghies, rowboats and similar small craft, and all ramps and floats associated therewith, in the form attached hereto as Exhibit R.

The termination of this Lease prior to delivery of a Condominium Notice, or after such delivery if such termination is pursuant to Article 12, shall terminate all rights and obligations of Landlord and Tenant under this Article. If a Condominium Notice has been delivered, then the termination of this Lease for any cause except pursuant to Article 12 shall not terminate the rights and obligations of Tenant and Landlord under this Article.

It is expressly agreed that upon recording of the Master Deed, provided such Master Deed includes the consent of all Qualifying Leasehold Mortgagees, this Lease shall terminate and be of no further force or effect, except for those provisions set forth herein which are expressly stated herein or in the Lease Termination Agreement referred to below to survive the expiration or termination of this Lease. Notwithstanding anything in this Lease to the contrary, said termination of the Lease pursuant to this paragraph shall not result in the reversion to Landlord of title to the Improvements or the Building Service Equipment. Upon the termination of this Lease as above provided Tenant shall prepare for the approval of Landlord an agreement (herein, "Lease Termination Agreement") which shall specify which of the provisions hereof, in addition to those expressly stated herein to survive, shall survive the termination of this Lease. The provisions to be so specified shall be those not included in the Master Deed which (i) are found in a typical land disposition agreement between Landlord and a redeveloper and are stated therein to run with the

urban renewal parcel which is the subject thereof, or (ii) expressly provide for the indemnification of Landlord by Tenant against acts of Tenant, such as the provisions of Section 5.5 hereof. Landlord shall not unreasonably withhold or delay approval of the Lease Termination Agreement nor execution and delivery of the same.

If by virtue of any statute, ordinance or other law or regulation in effect on the date for the creation of the condominium as above provided a valid condominium cannot be created, or such creation would be in violation of law, the parties shall act in good faith to postpone the creation of the condominium if it appears that such legal impediment shall lapse or otherwise terminate within a reasonable period of time, or alternatively to restructure the transaction contemplated by this Article 24 so as to accomplish the objectives thereof by means other than the creation of a condominium.

ARTICLE 25

HOLDING OVER

25.1 Any holding over by Tenant after expiration of the term shall not constitute a renewal or extension or give Tenant any rights in or to the Property except as expressly provided in this Lease.

ARTICLE 26

NOTICES

26.1 Any notice required or desired to be given pursuant to this Lease shall be in writing with copies directed as indicated below and shall be personally served, or, in lieu of personal service, by depositing same in the United States mail, postage prepaid, certified or registered mail, and shall be effective only upon receipt. If such notice shall be addressed to Landlord, the address of Landlord is:

Boston Redevelopment Authority
1 City Hall Square
Boston, MA 02201

with a duplicate copy to:

Palmer & Dodge
1 Beacon Street
Boston, MA 02108

Attn: James B. White, Esq.

and if addressed to Tenant, the address of Tenant is:

Rowes Wharf Associates
c/o The Beacon Companies
One Post Office Square
Boston, MA 02109

Attn: Edwin N. Sidman

with duplicate copies to:

The Equitable Life Assurance Society of
the United States
c/o Equitable Real Estate Investments
Management, Inc.
Monarch Plaza Office Building
3414 Peachtree Road, N.E.
Atlanta, GA 30326

and

Myrna Putziger, P.C.
McCormack & Putziger
225 Franklin Street
Boston, MA 02109

and if addressed to The Equitable Life Assurance Society of the United States, the address of said entity is:

c/o Equitable Real Estate Investments
Management, Inc.
Monarch Plaza Office Building
3414 Peachtree Road, N.E.
Atlanta, GA 30326

Attention: President

with a duplicate copy to:

Nutter, McClennen & Fish
Federal Reserve Plaza
600 Atlantic Avenue
Boston, Massachusetts 02210

Attention: J. Grant Monahan, Esq.

Either Landlord or Tenant may change its respective addresses by giving written notice to the other in accordance with the provisions of this paragraph.

Any requests for approvals made by Tenant to Landlord where such approvals shall be deemed granted after a period of non-reply by Landlord shall, as a condition to the effectiveness thereof, be prefaced with the following language printed in capital letters in bold face type:

"NOTICE
THIS REQUEST FOR APPROVAL REQUIRES IMMEDIATE REPLY
FAILURE TO RESPOND WITHIN _____ DAYS
SHALL RESULT IN AUTOMATIC APPROVAL"

ARTICLE 27

QUIET ENJOYMENT; ENCROACHMENTS AND VAULTS; LIMITATION OF LIABILITY

27.1 Landlord covenants that Tenant, upon paying the annual rent and all other charges herein provided for, and observing and keeping the covenants, agreements and conditions of this Lease on its part to be kept, shall lawfully and quietly hold, occupy and enjoy the Leased Premises during the term of this Lease, without hindrance or molestation of Landlord, or any person or persons claiming under or through Landlord, subject to the Permitted Exceptions and any other matters expressly hereinabove set forth; provided, however, that this covenant shall not extend to any encroachments of the Improvements on premises other than the Leased Premises, including, but not limited to, the encroachment of any present or future building, wall or structure, either on the Leased Premises or on any property adjacent thereto, and Landlord shall not be liable for any such encroachments, but Tenant agrees to indemnify and save harmless Landlord during the term of this Lease from and against any and all liability, penalty, damages, expense and judgment, whatsoever, on account of the location of any future (but not present) building, wall, structure or other encroachment on or partly on the Leased Premises, or on or partly on any property adjacent thereto.

Neither Landlord nor Tenant nor, if Tenant is a partnership or joint venture or consists of the trustees of a trust, any general or limited partner of, or joint venturer with, or trustee

or beneficiary of, Tenant shall be personally liable for any of their respective obligations hereunder, and in the event of a claim by either party against the other, the claimant shall look solely to the interests of Landlord or Tenant in the Property, as the case may be, and not to any other assets for satisfaction of such claim. It is further understood that if Tenant is a partnership or joint venture and any partner of said partnership or joint venturer within said joint venture is itself a partnership (herein, "Second Tier Partnership"), the limitation of liability set forth in the preceding sentence shall apply to the partners of said Second Tier Partnership.

Landlord named herein, and its respective successors in title to Landlord's interest under this Lease, shall be liable only for breaches occurring or during its or their respective periods of ownership of such Landlord's interest hereunder, and Landlord shall never be liable to Tenant for consequential damages arising out of defaults by Landlord hereunder except for those consequential damages reasonably foreseeable by Landlord on the basis of facts actually known to it at the time of any such default by Landlord.

27.2 It is expressly understood and agreed that all vaults now or hereafter built, projecting beyond the building line of the Leased Premises, are not included within the premises demised by this Lease, but Tenant may occupy and use the same during the term of this Lease, subject to such laws, rules and regulations as may be imposed by the appropriate municipal departments with respect

thereto. No revocation on the part of any municipal department or authority of the license to maintain and use such vaults shall in any way affect this Lease or the amount of the Base Rent or any other charges payable by Tenant hereunder. If any such license so to maintain and use such vaults shall be revoked, Tenant will, at its sole cost and expense, do and perform all such work as may be necessary to comply with any order revoking the same.

ARTICLE 28

ESTOPPEL CERTIFICATE

28.1 Tenant and Landlord agree at any time and from time to time, upon not less than ten (10) days' prior written notice by the one of them or any Qualifying Leasehold Mortgagee requesting the same, to execute, acknowledge and deliver to the other party or any Qualifying Leasehold Mortgagee a statement in writing, certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified, and stating the modifications), and the dates to which the Base Rent and other charges have been paid in advance, specifying the status of the design and plan review requirement set forth in Section 7.1 and the stage of construction of the Initial Improvements and item (xiii) of the Interior Completion Work, and stating whether or not, to the best knowledge of the party executing such statement, there are defaults or Events of Default under this Lease, and, if so, specifying each such default, it being intended that any such statement delivered pursuant to this Article may be relied upon by

any prospective purchaser or assignee of the fee or leasehold or any Leasehold Mortgagee or assignee of any Leasehold Mortgagee, or any subtenant of Tenant.

ARTICLE 29

REMEDIES CUMULATIVE

29.1 The specified remedies to which Landlord or Tenant may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Landlord or Tenant may be lawfully entitled in case of any breach or threatened breach by Landlord or Tenant, as the case may be, of any provision of this Lease. The failure of Landlord or Tenant to insist in any one or more cases upon the strict performance of any of the covenants of this Lease, or to exercise any option herein contained, shall not be construed as a waiver or a relinquishment for the future of such covenant or option.

29.2 A receipt by Landlord of rents, with knowledge of the breach of any covenant hereof, shall not be a waiver of such breach, and no waiver by Landlord of any provision of this Lease shall be effective unless in writing and signed by Landlord. Acceptance by Landlord (including, without limitation, of any draft remitting the same) of payments in amounts less than due Landlord shall be treated as payments on account to the extent thereof, notwithstanding any statement or endorsement on or accompanying the same; and the acceptance of payment by Landlord from any person other than Tenant on account of Tenant's

obligations shall not be treated as a waiver by Landlord of any right Landlord may have on account of an improper transfer of Tenant's interest under this Lease.

29.3 In addition to the other remedies in this Lease provided, Landlord and Tenant shall be entitled to restraint of the other, as the case may be, by injunction of the violation, or attempted or threatened violation, of any of the covenants, conditions and provisions of this Lease.

ARTICLE 30

SURRENDER NOT A MERGER

30.1 The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger and shall, at the option of Landlord, operate as an assignment to Landlord of any and/or all subleases of subtenants.

ARTICLE 31

ATTORNEYS' FEES AND OTHER COSTS

31.1 In the event either party shall bring any action or legal proceeding for damages for an alleged breach of any provision of this Lease, or to enforce, protect, determine or establish any term or covenant of this Lease or right of such party, or in the case of Landlord to recover rent or to terminate the tenancy of the Leased Premises, the prevailing party shall be entitled to recover from the other party as a part of such action

or proceedings, or in a separate action brought for that purpose, reasonable attorneys' fees and court costs.

31.2 It is anticipated that, from time to time during the term of this Lease, Landlord shall require the advice of counsel or other professional consultants in the examination of requests submitted by Tenant, review and approval of documentation required from time to time to be provided by Tenant to Landlord under this Lease, and otherwise in the review of the exercise by Tenant of any of its rights hereunder.

Accordingly, without limiting Landlord's right to recover the reasonable fees and expenses of counsel incident to enforcing its obligations on default or breach of condition by Tenant, Tenant agrees to pay to Landlord reasonable fees and expenses of counsel and other professional consultants (but only to the extent not on the full time payroll of Landlord) incurred by Landlord on account of services rendered after the date hereof incident to disposition of requests made by Tenant under this Lease, including, without limitation, review and preparation of documentation required incident thereto, or in services rendered to Landlord incident to the exercise by Tenant of its rights hereunder which requires review or preparation of documentation, such as review and preparation of documentation in compliance with Tenant's request that Landlord enter into an agreement with a Leasehold Mortgagee of the type referred to in Article 23 hereof, all to the end that the rent paid by Tenant shall be absolutely net to Landlord; and

Landlord shall have the right to treat any such fees as additional rent, for the recovery of which Landlord shall have all the remedies provided herein; but excluding from the operation of the foregoing provisions of this paragraph all such fees and expenses incurred incident to Landlord's consideration of submissions or requests for approval, consent or the like where, under the terms of this Lease, such submission, consent, approval or the like is required as a condition to an act by Tenant.

ARTICLE 32

DEFINITIONS

32.1 Terms defined elsewhere in this Lease shall have the meanings ascribed to them. In addition, the terms defined below shall have the meanings ascribed to them wherever such terms shall appear in the Lease, unless the context otherwise requires.

32.2 The term "person" shall include an individual, corporation, partnership, unincorporated organization or government, or any agency or political subdivision thereof and any other entity, whether or not incorporated.

32.3 The terms "rent" or "rents" shall mean the Base Rent monthly reserved and all amounts specified in this Lease as additional rent.

32.4 The term "Institution" shall mean any of the following:

- (a) A (i) bank (which term shall include a wholly-owned subsidiary or a sister corporation of a bank), (ii) insurance

company, (iii) savings and loan association, (iv) trust company (which term shall include a wholly-owned subsidiary or a sister corporation of an insurance company), or (v) a corporation, trust or association qualifying as a real estate investment trust under the provisions of Section 856 of the Internal Revenue Code, as amended (or like future provisions of such Code), provided as to any entity included in (i) through (v) above it is chartered under the laws of The United States of America or any state thereof, and has a principal place of business in one of such states and a combined capital and surplus account (or, in the case of a mutual company, the equivalent thereof) of not less than \$300,000,000. Such capital and surplus account of \$300,000,000 shall be applied to the aggregate of such accounts of participating entities in a single loan transaction, and for the purpose of this provision the capital and surplus accounts of a wholly-owned subsidiary or a sister corporation of a bank or insurance company shall be deemed to include the capital and surplus accounts of the parent or sister banks or insurance company.

(b) an educational institution with a capital endowment of not less than \$300,000,000.

(c) a pension fund established by and for any domestic or foreign business corporation or corporations, or by and for any group of employees of a governmental body or bodies

or of a religious or educational institution or institutions or for any trade union, and, in each such case, having a net worth, determined in accordance with standards applicable to such institutions in the financial industry, of not less than \$300,000,000.

32.5 The term "Leasehold Mortgage" shall mean any mortgage on Tenant's entire interest in the Property (or in portions of the Property pursuant to Section 23.6) granted to an Institution. The term "Leasehold Mortgagee" shall mean the holder of any Leasehold Mortgage. In the event there shall exist at any time or times more than one Leasehold Mortgage, the terms "Leasehold Mortgage" and "Leasehold Mortgagee" where used herein shall, unless expressly provided otherwise, be deemed to refer and apply to all said Leasehold Mortgages and Leasehold Mortgagees.

32.6 The expression "movable trade fixtures, machinery and equipment", or words of similar import, shall include all furnishings, chattels, personal property and equipment, and all additions, replacements or articles in substitution thereof, of every kind and description which are not now or hereafter affixed and attached to the Improvements and which are not used, or procured for use, in connection with the operation of the Improvements, and which are owned by others than Tenant, and all furnishings, chattels, personal property and equipment and all additions, replacements or articles in substitution thereof, of every kind and description which are owned by occupants of space

in the Improvements or the Leased Premises, whether or not so affixed and attached, so long as the same are readily removable without material damage or injury to the Improvements.

32.7 The term "Plan" shall mean the Downtown Waterfront-Faneuil Hall Urban Renewal Plan as in effect on the date hereof.

32.8 The term "Architect" shall mean only the architectural firm of Skidmore, Owings & Merrill, or such substitute therefor as shall be designated by Tenant with the approval of Landlord, which shall not be unreasonably withheld or delayed.

32.9 Any reference to the "termination of this Lease" shall be deemed to include any termination hereof by expiration, default or otherwise.

32.10 The term "Depository" shall mean the first Leasehold Mortgagee, or if the first Leasehold Mortgagee shall elect not to act as Depository, said term shall refer to a bank or trust company chartered under the laws of the United States of America or the Commonwealth of Massachusetts located in the City of Boston with a combined capital and surplus account of not less than \$50,000,000, which shall be selected by the mutual agreement of Landlord and Tenant and, in accordance with such terms as the parties may agree and upon provision for indemnity suitable to it, shall agree to act as depository of funds for the purposes provided in this Lease. The Depository shall be under no obligation to cash or collect interest coupons on any securities deposited hereunder issued in coupon form, but shall hold such coupons subject to the order of Tenant and the provisions of this

Lease under which such securities were deposited. Cash deposited with the Depository shall be invested by the Depository in U.S. Treasury bills or notes or such other form of investment as shall be mutually acceptable to Landlord and Tenant and all amounts earned thereon shall be considered part of, and devoted to the purpose of, the deposit, with any balance remaining after such purpose has been satisfied to be paid to Tenant.

32.11 The term "Director" shall refer to the Director of the Boston Redevelopment Authority.

ARTICLE 33

NON-DISCRIMINATION; EMPLOYMENT; NO CONFLICTS

33.1 Tenant, for itself and all successors and assigns, agrees that in the redevelopment of the Leased Premises and in all construction activity undertaken with respect thereto:

(a) Tenant will not discriminate against any employee, or applicant for employment because of race, color, sex, religion, age, or national origin. Tenant will take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Tenant agrees to post in conspicuous places, available to

employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(b) Tenant will, in all solicitations or advertisements for employees placed by or on behalf of Tenant, state all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin.

(c) Tenant will send to each labor union or representative of workers with which Tenant has a collective bargaining agreement or other contract or understanding, a notice, to be provided advising the said labor union or workers' representative of Tenant's commitments under Section 202 of Executive Order #11246 of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) Tenant will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) Tenant will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor, pursuant thereto, and will permit access to Tenant's books, records, and accounts by Landlord, the Secretary of Housing and Urban

Development, and the Secretary of Labor, for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(f) In the event of Tenant's noncompliance with the nondiscrimination clauses of this Section 33.1, or with any of the said rules, regulations, or orders, upon written notice to Tenant, and the continuance of such noncompliance for sixty (60) days thereafter, Tenant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246, of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967 and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246, of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, or by rule, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.

(g) Tenant will include the provisions of paragraph (a) through (f) of this Section 33.1 in every contract or purchase order, and will require the inclusion of these provisions in every subcontract entered into by any of its contractors, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, so that such provisions will be binding upon each such contractor, subcontractor, or vendor as the case may be. Tenant will take such action with respect to any construction

contract, subcontract, or purchase order as Landlord directs as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event Tenant becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by Landlord, Tenant may request the United States to enter into such litigation to protect the interest of the United States.

33.2 Tenant has submitted and Landlord has approved a plan to ensure that workers are employed in the construction of the Initial Improvements so that the worker hours on a craft-by-craft basis shall be performed as follows:

- (a) at least 50% of the total employee work hours in each trade by bona fide City of Boston residents;
- (b) at least 25% of the total employee work hours in each trade by minorities;
- (c) at least 10% of the total employee work hours in each trade by women.

For the purposes of this Section 33.2, worker hours shall include work performed by persons filling apprenticeship and on-the-job training positions. Such plan is as follows:

- (a) Tenant shall incorporate in every general construction contract or construction management agreement an enumeration of the foregoing worker hour goals and shall impose a responsibility upon any such general contractor or construction manager (i) to pursue the efforts enumerated in this Section 33.2 and (ii) to incorporate such worker hour goals in all subcontracts and impose

upon all subcontractors the obligation to pursue such efforts.

(b) Each Tenant, its contractor, and each subcontractor shall designate an individual to serve as affirmative action officer for the purpose of carrying out the efforts to achieve worker hour goals set forth herein.

(c) Contemporaneously with the start of construction, the affirmative action officers and other interested representatives of Tenant, its Contractor and each subcontractor then selected shall hold a pre-job conference with appropriate union representatives of the construction trade unions for the purpose of reviewing the above worker hour goals and the manning requirements for construction activity over the life of the construction period.

(d) Each request for qualified construction workers made by any person involved in the construction of the Initial Improvements to a union hiring hall or business agent shall contain a recitation of such worker hour goals and a request that qualified referees for construction positions be selected in the same proportion as such goals; provided, however, that if at the time of any such manning request the requesting party's workforce composition falls short of any one or more of such goals, such manning request shall seek qualified referees in such proportion among such categories as would be necessary to more fully achieve such goals. In the event that the union hiring hall or business agent to which or whom such a manning request has been submitted fails to comply with such request, the affirmative action officer of such requesting party shall seek to verify that insufficient

workers in the categories specified in such request are then shown on the unemployed list maintained by such union hiring hall or business agent by seeking to obtain an affidavit from the union hiring hall representative or business agent to such effect. Copies of any affidavit so obtained shall be forwarded to Landlord' affirmative action officer.

(e) All persons applying directly to the Contractor or any subcontractor for employment in construction on the project who are not employed by the party to whom application is made will be referred to Landlord's affirmative action officer and a written record of such referral shall be made, a copy of which shall be sent to such officer.

Tenant, its contractors, and each subcontractor shall maintain records reasonably necessary to ascertain compliance with the requirements of this Section 33.3 for at least one year after the issuance of a Certificate of Completion in respect of the Initial Improvements.

33.4 No member of the Congress of The United States of America shall be admitted to any share or part thereof, or to any benefit to arise from this Lease. No member, official, or employee of Landlord shall have any personal interest, direct or indirect, in this Lease, nor shall any such member, official or employee participate in any decision relating to this Lease which affects his personal interest or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. Status as a beneficiary of or insured under an

insurance policy issued by a life insurance company which has an interest in Tenant or the Leased Premises shall not constitute a "personal interest, direct or indirect," for the purposes of this Section.

33.5 No member, official or employee of Landlord shall be personally liable to Tenant in the event of any default or breach by Landlord or for any amount which may become due to Tenant or on any obligations under the terms of this Lease.

33.6 Tenant shall formulate and submit to Landlord a voluntary Employment Opportunity Plan, which Plan will detail Tenant's good faith efforts to assure that 50% of the employment opportunities created in the Property will be made available to Boston residents with particular outreach efforts to the residents of the neighborhoods in close proximity to the Leased Premises.

33.7 Notwithstanding anything in Article 18 or elsewhere in this Lease to the contrary, in the event Tenant shall default in any of its obligations under this Article 33 which by its nature is not susceptible of being cured by Tenant, and provided Tenant shall have taken such specific remedial action in respect of such default directed at redressing the particular grievance which gave rise to the default as may have been ordered by any court or agency having jurisdiction over the same, then Landlord's sole remedy for such default shall be injunctive relief, it being understood that, without limitation, Landlord shall have no right to terminate this Lease on account of such default.

ARTICLE 34

GENERAL; RIGHT OF FIRST REFUSAL

34.1 The captions used in this Lease are for the purpose of convenience only and shall not be construed to define, limit or extend the meaning of any part of this Lease.

34.2 Any executed copy of this Lease shall be deemed an original for all purposes.

34.3 Time is of the essence for the performance of each covenant and term of this Lease.

34.4 In case any one or more of the provisions contained herein, except for the payment of rent, shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Lease, but this Lease shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein. This Lease shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts.

34.5 The language in all parts of this Lease shall in all cases be construed as a whole according to its fair meaning, and not strictly for or against either Landlord or Tenant. When the context of this Lease requires, the neuter gender includes the masculine, the feminine, a partnership or corporation or joint venture, and the singular includes the plural.

34.6 Each term and provision of this Lease performable by Tenant shall be construed to be both a covenant and a condition,

conferring upon Landlord, in the event of breach of any such term or condition, the right to terminate this Lease in accordance with and subject to the provisions of Article 18.

34.7 The covenants and agreements contained in this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, and assigns (to the extent this Lease is assignable under the terms hereof). Landlord and Tenant each warrant and represent to the other that corporate or other action has been taken by the warranting party to authorize the execution and delivery of this Lease and that this Lease is valid and binding upon it in accordance with its terms.

34.8 The waiver by Landlord or Tenant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or of any other term, covenant or condition herein contained.

34.9 Each party hereto agrees to act reasonably and in good faith with respect to the performance and fulfillment of the terms of each and every covenant and condition contained in this Lease, and with respect to the exercise of each and every right reserved herein, and wherever in this Lease the consent, approval or exercise of judgment or discretion of either party is required or requested, such consent or approval shall not be withheld or delayed unreasonably and such judgment or discretion shall not be exercised arbitrarily, but shall be exercised reasonably and promptly;

provided, however, that, except as otherwise provided in Section 7.1 in regard to a Design Review Impasse, this Section shall not apply to the exercise of Landlord's rights under provisions of this Lease relating to its approval of matters involving signs and design and appearance of the Leased Premises and the Improvements, as to all of which Landlord's approvals shall be given or withheld in its sole discretion. The proviso in the preceding sentence shall only be applicable, however, during the Boston Redevelopment Authority's ownership (or ownership by a successor governmental agency having urban planning responsibility) of the Leased Premises, but in no event shall this limitation be construed in any case as a contractual limitation on the exercise by the Boston Redevelopment Authority (or such successor agency) of the regulatory powers conferred upon the Boston Redevelopment Authority (or such successor agency) by any provision of general or special law now in effect or hereafter enacted.

34.10 Where interest is provided to be paid hereunder, the rate therefor, on an annualized basis, shall be computed quarterly at the base rate (or its reasonable equivalent) from time to time charged by The First National Bank of Boston, but in no event more than the highest amount, if any, which would not violate applicable usury prohibitions.

34.11 It is agreed that if during the term of this Lease Landlord should desire to convey its interest hereunder, and shall have received an offer acceptable to Landlord therefor from a

third party or shall propose to make an offer to a third party, then and in that event, provided Tenant is not in default hereunder, which default has not been cured within any grace period applicable thereto, Tenant shall have the privilege of purchasing Landlord's interest hereunder on the same terms and conditions as are set forth in the aforesaid offer received or made by Landlord. Prior to Landlord accepting or making any such offer, Landlord shall deliver to Tenant in accordance with Article 26 a written offer to sell Landlord's interest hereunder at the price and upon the other terms and conditions embodied in the offer received by Landlord from the third party or in the offer Landlord proposes to make to any such party, and Tenant shall have a period of sixty (60) days from the receipt of said offer in which to elect to purchase the offered interest upon the price, terms and conditions set forth in Landlord's offer to Tenant. Said offer to Tenant shall also identify the third party which has made an offer to Landlord or to which Landlord proposes to make an offer. If Tenant shall fail within the aforesaid period of 60 days to give notice to Landlord of Tenant's election to purchase the offered interest, accompanied by such earnest money payment as may by the terms of said offer be a condition to the acceptance thereof, Landlord shall be free to convey its interest hereunder to the third party identified in Landlord's offer to Tenant, it being understood that in such event the provisions of this Section 34.11 shall be revived and shall be binding upon said third party and

all successor purchasers of Landlord's interest, all with the same force and effect as if said third party and successor purchasers were the original Landlord named herein. If Tenant does accept said offer as aforesaid, Landlord shall sell the interest offered and Tenant shall purchase the same, pursuant to the terms and conditions of the accepted offer.

In no event shall the rights granted to Tenant hereunder be exercised more than twenty (20) years following the death of the last survivor of Michael A. White, Laurie A. White, Elizabeth E. White (the children of James B. White, all presently of Lincoln, Massachusetts), Alex F. Sirkin, Jacob O. Sirkin (the children of Joel H. Sirkin, all presently of Wayland, Massachusetts), or Patrick S. Daley (the child of Paul P. Daley, presently of Cambridge, Massachusetts).

It is expressly understood that notwithstanding any transfer of Landlord's interest hereunder to a third party, all approvals to be given by Landlord pursuant to the provisions of this Lease shall continue to be made by the original Landlord named herein, unless Tenant shall otherwise agree in writing.

34.12 It is hereby mutually agreed between Landlord and Tenant that Landlord shall not, as the result of any rights granted herein to Landlord, be deemed or considered as co-owner, co-partner or co-venturer with Tenant in or with respect to the

Leased Premises or the Property or with respect to any obligation of Tenant under any sublease or any other contract, agreement or obligation in respect of the Leased Premises or the Property.

ARTICLE 35

AGREEMENTS WITH RESPECT TO PENSION OR PROFIT SHARING PLANS

35.1 Landlord covenants and warrants:

(a) that it is not, and without the written consent of Equitable will not become a "party in interest" (within the meaning of Section 3(14) of the Employee Retirement Income Security Act of 1974, as now or hereafter amended) ("ERISA") to any pension or profit sharing plan which at any time has assets allocated to Equitable's Separate Account No. 8, unless an exemption exists which results in Section 406 of ERISA not being violated;

(b) that, if an exemption is claimed, Landlord will provide such information as Equitable may require in order to determine if such exemption is in fact available; and

(c) that it will not sell, convey or transfer the Leased Premises to any person or entity which could not satisfy the undertaking of subclause (a) above;

regardless of whether any of the above described conditions arises by operation of law or otherwise. The consent by Landlord to the transfer or assignment by Tenant of its interest under this Lease

shall not be considered a sale, transfer or conveyance of the Leased Premises under clause (c) above.

35.2 If requested to do so by Tenant in writing, Landlord shall deliver to Equitable at least 20 days prior to the later of the closing of any transfer or receipt of Tenant's request, a statement by the proposed transferee or assignee that it is not a "party in interest" or if it is, that an exemption exists which results in Section 406 of ERISA not being violated, together with such information as Equitable may require in order to determine if said exemption is in fact available. If Equitable determines that such exemption is not available, such sale, conveyance or transfer shall not take place until an exemption is obtained, as contemplated in Section 35.4 below.

35.3 If Equitable shall notify Landlord of the names of any such plan and request verification that Landlord is in compliance with the requirements of Section 35.1 hereof, Landlord shall furnish to Equitable in writing such verification within thirty (30) days following the date of such notice or shall advise in what manner it is not in compliance. If at any time Landlord becomes aware of a failure to comply with its obligations under Section 35.1 above, it shall promptly so advise Equitable in writing.

35.4 In the event that a "prohibited transaction" under Section 406 of ERISA occurs during the term of this Lease, or would exist after a sale, conveyance or transfer, for which a

statutory or class exemption is not available, Landlord and Tenant shall jointly apply to the Department of Labor, or successor thereto, for an administrative exemption under Section 408(a) of ERISA. All costs incurred by Landlord and Tenant in seeking an exemption shall be borne by Tenant.

ARTICLE 36

INTEGRATION

36.1 This Lease, and the Exhibits and addenda, if any, attached hereto, constitute the entire agreement between the parties, and there are no agreements or representations between the parties except as expressed herein. No subsequent change or addition to this Lease shall be binding unless in writing and signed by the parties hereto.

In Witness Whereof, the parties hereto have executed this Lease on _____, under seal.

LANDLORD: BOSTON REDEVELOPMENT AUTHORITY

Dated: By _____
Its Director, _____

TENANT: ROWES WHARF ASSOCIATES

By: ROWES WHARF LIMITED PARTNERSHIP

Dated: By _____
General Partner

THE EQUITABLE LIFE ASSURANCE
SOCIETY OF THE UNITED STATES

By _____
Its

LIST OF EXHIBITS ATTACHED
TO GROUND LEASE
Between
BOSTON REDEVELOPMENT AUTHORITY
and
ROWES WHARF ASSOCIATES

- | | | |
|-----------|---|---|
| Exhibit A | - | Description of
Leased Premises |
| B | - | Permitted Encumbrances |
| C-1 | - | Schematic Design |
| C-2 | - | Fast-Track Drawings |
| D | - | Design Review Procedure |
| E | - | Arbitration of Design Review Impasse |
| F | - | Master Deed with Schedule A
Restrictions |
| H | - | Intentionally Omitted |
| I | - | Reserved Unit Promissory Note |
| J | - | Hotel Unit Promissory Note |

LIST OF EXHIBITS NOT ATTACHED
TO GROUND LEASE
between
BOSTON REDEVELOPMENT AUTHORITY
and
ROWES WHARF ASSOCIATES

EXHIBIT	G - Condominium By-Laws
	K - First Mortgage
	L - Pledge Agreement
	M - Form Unit of Deeds
	N)
	O) - Parking Spaces Licenses
	P)
	Q - Ferry Terminal Lease
	R - Marina Lease

The absence of the foregoing exhibits on the date of execution hereof, and the failure hereafter to attach any of such exhibits, shall not affect the validity or enforceability of this Lease. Landlord and Tenant hereby agree that this Lease shall be amended from time to time to annex one or more of the foregoing exhibits to this Lease when the same are agreed upon by Landlord and Tenant. Landlord and Tenant hereby further agree that they shall not unreasonably withhold or delay approval of the form or substance of any such exhibit. The terms and provisions to be contained in the foregoing exhibits shall be substantially in accordance with of that certain Lease Commencement Agreement (the "Lease Commencement Agreement") dated May 25, 1984, by and between Landlord and Rowes Wharf Limited Partnership, to the extent that the Lease Commencement Agreement relates to the subject matter of any such exhibits, and as to any terms or provisions of such exhibits not set forth in the Lease Commencement Agreement, shall be consistent with (i) this Lease and the exhibits which are annexed hereto, (ii) the Office/Retail Unit Lease of even date between Landlord and Tenant, and (iii) prevailing practices for documents of such nature in commercial transactions and transactions involving mixed-use projects in the City of Boston, Massachusetts, including, without limitation, the condominiums at 100 Summer Street, the Four Seasons Hotel development, and the Ritz Hotel development, and shall be commercially reasonable.

If Landlord and Tenant have failed to agree upon the terms and provisions of the By-laws to be annexed hereto as Exhibit G,

the mortgage to be annexed hereto as Exhibit K, or the form of Unit Deeds to be annexed hereto as Exhibit M at the time that this Lease is to terminate in accordance with the provisions of Article 24, the creation of the Condominium and the implementation of the transaction contemplated in said Article 24 shall be postponed until the terms and provisions of such By-laws, mortgage, and Unit Deeds have been determined in accordance with the procedure hereinafter provided. If Landlord and Tenant have failed to agree upon the terms and provisions of any such other exhibit at the time that this Lease is to so terminate, the Condominium shall be created and the terms and provisions of such exhibits shall be determined in accordance with the procedure hereinafter provided, and such exhibits shall be executed and delivered immediately upon such determination.

In the event that Landlord and Tenant are unable to agree upon the terms and provisions of any exhibit to be annexed hereto, either party may demand that the terms and provisions of such exhibit be determined by a single arbitrator, who shall be an attorney who is a partner in any of the law firms of Goulston & Storrs, Gaston Snow & Ely Bartlett, or Rackemann, Sawyer & Brewster, each of Boston, Massachusetts, having recognized expertise and not less than seven years professional experience in the negotiation and documentation of complex commercial real estate transactions in the City of Boston or the Commonwealth of Massachusetts. The party demanding such arbitration shall give written notice hereof to the other party, which notice shall name the attorney designated to serve as arbitrator and evidence of the acceptance by such designee of such appointment. The party demanding such arbitration shall be solely responsible for the fees and expenses of such arbitrator. Proceedings before such arbitrator shall be conducted in accordance with the rules of the American Arbitration Association, and the written determination of such arbitrator shall be final and binding upon both Landlord and Tenant. Such arbitrator may not make any determination inconsistent with any of the terms of this Lease or the standard herein set forth for the terms and provisions to be contained in such exhibits.

EXHIBIT A

DESCRIPTION OF LEASED PREMISES

Parcel A

A parcel of land and water known as Rows and Fosters Wharves, on Atlantic Avenue in Boston, Suffolk County, Massachusetts, bounded and described as follows:

Beginning at a point on the easterly sideline of Atlantic Avenue, said point being the northwest corner of the property to be described, said property being now or formerly of the Boston Redevelopment Authority, said point of beginning having a Massachusetts Coordinate System value of $X=721,346.69$ and $Y=494,815.18$;

Thence running $N 71^{\circ} 12' 21'' E$ along land or formerly of First City Developments Corp. of Boston - Harbor Towers II, a distance of six hundred forty-six and $50/100$ (646.50) feet to a point on the State Harbor Line and former United States Pierhead & Bulkhead Line established by the War Department on April 24, 1940;

Thence turning and running $S 28^{\circ} 55' 55'' W$ along said State Harbor Line and former United States Pierhead & Bulkhead Line a distance of eight hundred fifty and $01/100$ (850.01) feet to a point;

Thence turning and running $N 69^{\circ} 05' 34'' W$ along a line perpendicular to the Harbor Line in Boston Harbor established by Chapter 170 of the Acts of 1880 a distance of thirty-three and $12/100$ (33.12) feet to a point;

Thence turning and running $N 78^{\circ} 09' 39'' W$ along land now or formerly of Atlantic Avenue Limited Partnership, a distance of two hundred one and $29/100$ (201.29) feet to a point;

Thence turning and running $N 9^{\circ} 10' 35'' E$, along the easterly sideline of said Atlantic Avenue, a distance of two hundred thirty-one and $00/100$ (231.00) feet to a point;

Thence turning and running N 2° 11' 11" W along the easterly sideline of said Atlantic Avenue, a distance of two hundred fifty-four and 67/100 (254.67) feet to the point of beginning,

said parcel containing 234,224 square feet, more or less and being shown on a plan entitled "Property Line Plan for The Beacon Companies, Atlantic Avenue, Boston, Massachusetts" dated April 16, 1984, Scale 1 inch = 40 feet, prepared by Cullinan Engineering Co., Inc., recorded with Suffolk Registry of Deeds at Book 11419, Page 10.

Parcel B

That certain parcel of land beneath the surface of Atlantic Avenue in Boston, Suffolk County, Massachusetts shown on a plan entitled "Taking Plan, Rows Wharf/Fosters Wharf Redevelopment Project, Boston Redevelopment Authority, Boston (Suffolk County) Massachusetts" prepared by Cullinan Engineering Co., Inc., Civil Engineers & Land Surveyors, Scale 1" = 20', dated November 27, 1984 recorded with Suffolk Registry of Deeds at Book 11351, Page 193, bounded and described as follows:

Beginning at a point on the easterly sideline of Atlantic Avenue, said point being the northeast corner of the property to be described, said property being now or formerly of the Boston Redevelopment Authority, said point of beginning having a Massachusetts Coordinate System value of X=721,346.69 and Y=494,815.18;

Thence turning and running S 2° 11' 11" E along the easterly sideline of said Atlantic Avenue, a distance of two hundred fifty-four and 67/100 (254.67) feet to a point;

Thence turning and running S 9° 10' 35" W, along the easterly sideline of said Atlantic Avenue, a distance of two hundred eight and 81/100 (208.81) feet to a point;

Thence turning and running N 78° 09' 39" W along land now or formerly of the City of Boston, a distance of eleven and 09/100 (11.09) feet to a point;

Thence turning and running in an arc curving to the left having a radius of one thousand two hundred thirty-four and 88/100 (1,234.88) feet for a distance of four hundred fifty-seven

and 70/100 (457.70) feet to a point;

Thence running N 71° 12' 21" E along land of the City of Boston, a distance of eleven and 95/100 (11.95) feet to the point of beginning,

said parcel being located vertically beneath the sidewalk between elevation 19.00 and 18.60 and continuing below.

EXHIBIT B

PERMITTED ENCUMBRANCES

1. Taxes assessed as of January 1, 1985, for the fiscal period beginning July 1, 1985, which are not yet due or payable, and for subsequent years.
2. Title to and rights of the United States of America, the Commonwealth of Massachusetts, the Inhabitants of the City of Boston and the public generally in and to those portions of Parcel A lying seaward of the primitive low water line as defined in Chapter 704 of the Acts of 1983.
3. Title to and rights of the United States of America, the Commonwealth of Massachusetts, Inhabitants of the City of Boston and the public generally in and to so much of Parcel B as lies below the mean high water mark of Boston Harbor and the Atlantic Ocean. (Affects Parcel B only)
4. Terms and provisions of the Downtown Waterfront - Faneuil Hall Urban Renewal Plan (Project No. Mass R-77), dated April 15, 1964, as amended, recorded with said Deeds in Book 7948, Page 527
5. Terms and provisions of License No. 1181 issued by the Commonwealth of Massachusetts Department of Environmental Quality Engineering to Rowes Wharf Limited Partnership dated February 11, 1985 and recorded with said Deeds in Book 11477, Page 211.
6. Terms and provisions of the following licenses granted by the Commonwealth of Massachusetts, Department of Environmental Quality Engineering and its predecessors:
 - a) To the Proprietors of Rowe's Wharf:
 - (i) License No. 124 dated September 15, 1873, recorded with said Deeds in Book 1177, Page 243.
 - (ii) License No. 266 dated September 8, 1875, recorded in Book 1268, Page 120.
 - (iii) License No. 404 dated December 13, 1878, recorded in Book 1443, Page 68.
 - (iv) License No. 638 dated March 8, 1882, recorded in Book 1553, Page 49.
 - (v) License No. 1048 dated March 15, 1888, unrecorded.
 - b) To Fosters Wharf Company:
 - (i) License No. 170 dated November 8, 1873, recorded in Book 1185, Page 290.
 - (ii) License No. 202 dated April 7, 1874, recorded in Book 1205, Page 8.
 - (iii) License No. 533 dated July 6, 1880, recorded in Book 1499, Page 307.
 - (iv) License No. 796 dated April 9, 1885, recorded in Book 1672, Page 468.
 - (v) License No. 1131 dated January 11, 1890, recorded in Book 1916, Page 568.

- c) To Boston Revere Beach and Lynn Railroad Company:
- (i) License No. 504 dated December 8, 1879, recorded in Book 1477, Page 275.
 - (ii) License No. 1132 dated December 18, 1889, recorded in Book 1913, Page 426.
 - (iii) License No. 1225 dated January 20, 1890, recorded in Book 1919, Page 232.
 - (iv) License No. 1225A dated January 20, 1890, recorded in Book 1919, Page 232.
 - (v) License No. 1227 dated February 13, 1890, recorded in Book 1921, Page 221.

d) License No. 277 dated June 26, 1879, unrecorded.

e) License No. 5609 dated November 5, 1969, recorded in Book 8342, Page 192.

f) License No. 746 dated April 17, 1981, unrecorded.

7. Terms and provisions of a Cooperation Agreement dated as of March 1, 1982 by and between the Boston Redevelopment Authority and Bain & Company, recorded with said Deeds in Book 9954, Page 42, as affected by Project Coordination Agreement by and among Rowes Wharf Limited Partnership, Atlantic Avenue Limited Partnership and the Boston Redevelopment Authority dated

8. Terms and provisions of Order of Conditions issued by the Boston Conservation Commission, DEQE File No. 6-266, dated December 21, 1984, recorded with said Deeds in Book , Page , and of Order of Conditions issued by the Boston Conservation Commission dated , recorded with said Deeds in Book , Page .

9. Grant of Easements by the Boston Redevelopment Authority to the Boston Water and Sewer Commission dated recorded with said Deeds in Book , Page .

EXHIBIT C-1

ROWES WHARF
REVISED SCHEMATIC DESIGN

Schedule of Drawings

	<u>Drawing Number</u>	<u>Date</u>	<u>Title</u>
ASK #	--	12/11	Grand Level Plan
	563	12/10	North Wharf North Elevation
	564		Central Wharf Elevation
	565		Rowes Walk Entry Perspective
	566		Rowes Walk Perspective
	567		Rowes Walk Perspective
	568		Rowes Walk Perspective
	569	12/10	South Wharf North Elevation
	570		AAB Elevation
	571		Arch Elevation
	572		Ferry Terminal Elevation
	573		Ferry Terminal Perspective
	548	12/5	Second Floor Plan
	555	12/5	Garage Level One
	542	12/4	Central Wharf Entry Perspective
	--	--	Public Observatory Plan
	519	12/5	Eight Floor Plan
	525	12/5	Ninth Floor Plan
	526	12/5	Tenth Floor Plan
	490	12/5	Eleventh Floor Plan

EXHIBIT C-2

1. Marine/Subsurface Contract Drawings (half size) as follows:
 - A. Dimensional Control Drawings (DC-1 & DC-2) dated 9/5/84
 - B. Structural Drawings (S-1 through S-40) dated 9/5/84
 - C. Subsoil Drainage Drawing (SD-1) dated 9/5/84
 - D. Clarification Sketches (SSK 110884, and SSK 111984 A - G) dated as noted.
2. "Specifications - Subsurface through Garage Level and Wharf Platform Construction" dated September 4, 1984.
3. Exhibits to Proposed Agreement with Perini Corporation, dated December 4, 1984, as follows:
 - Exhibit A - Contract Documents
 - Exhibit E - Clarifications to the Agreement

EXHIBIT D

THE DESIGN REVIEW PROCEDURE FOR
DEVELOPER'S ARCHITECTURAL SUBMISSIONS
TO THE
BOSTON REDEVELOPMENT AUTHORITY

JANUARY 1984

BOSTON REDEVELOPMENT AUTHORITY DESIGN REVIEW PROCEDURE

All development proposals submitted to the Boston Redevelopment Authority will be subject to design review and approval. Required submissions shall be made at four stages of project design and construction: Schematic Design, Design Development, Contract Documents, and Construction Inspection. Submissions shall include the materials described herein, except that for projects of limited size, scope and impact on their surroundings, certain of the required materials may be waived by the Authority. This determination will be made at the start of each stage of the Design Review Procedure.

In addition to the four-stage Design Review Procedure, other reviews at the request of either the developer or the Authority are encouraged. It is also expected that reasonable requests for progress prints and other materials in addition to these required herein will be met at any time.

Review of Stages 2, 3 and 4 will be limited to consideration of design refinements, new elements not present in previous submissions, and conformity with previously approved submissions.

DESCRIPTION OF SUBMISSION REQUIREMENTS

1. SCHEMATIC DESIGN

The intent of this review is to secure agreement on the basic design concept. The following materials are required:

- a. Written description of the project including all program elements and space allocation for each element.
- b. Site plan at an appropriate scale (e.g., 1" = 16' or 1" = 20') showing:
 1. General relationships of proposed and existing buildings and open space. Open spaces mutually defined by buildings on adjacent parcels and across streets shall be included.
 2. General location of walks, driveways, parking, services areas, roads, and major landscape features.
 3. Pedestrian and vehicular (including service) access and flow through the parcel and to adjacent areas.
 4. Survey information, such as existing elevations, benchmarks, utilities, etc.
 5. Current ownership (including purchase options) of all portions of the development site.
 6. Phasing possibilities, if any.
 7. Construction limits, if applicable.
- c. Schematic building plans showing ground floor and typical upper floor(s).
- d. Massing model at 1" = 100' for use in the Authority's downtown cityscape model.
- e. Shadow studies showing the effects of the proposed massing on the surrounding area with particular attention to nearby public spaces including sidewalks, parks, and plazas.

Submission of site plan and massing options, as well as other sketches and diagrams which will help clarify design issues and the proposed solution is encouraged. After review and agreement on the program, site plan and massing, the following materials are required:

- f. Building and landscape plans, elevations in the context of the surrounding area, and sections showing organization of functions and spaces, all at an appropriate scale (e.g., 1" = 8'). These drawings shall describe architectural massing, facade design, and proposed materials.

- g. Site model at an appropriate scale (e.g., 1" = 16' or 1" = 20'). All nearby buildings and streets should be included to illustrate the relationship of proportions, materials and facade treatment to the surrounding buildings.
- h. Wind impact studies showing the effect of the project on the surrounding area with particular attention to nearby public spaces including sidewalks, parks, and plaza's.
- i. Estimated construction schedule for the project.
- j. Proposed schedule for submission of Design Development materials.

Upon approval by the Authority of the SCHEMATIC DESIGN, the following submission is required:

2. DESIGN DEVELOPMENT

The intent of this review is to secure agreement on the final design prior to detailed work on Contract Documents. The following materials are required:

- a. Written description of the project (including all program elements and space allocation for each element) and zoning calculations.
- b. Site plan at an appropriate scale (e.g., 1" = 16' or as determined after approval of SCHEMATIC DESIGN) showing:
 - 1. Relationship of proposed building and open space to existing adjacent buildings, open spaces, streets, and buildings and open spaces across streets.
 - 2. Proposed site improvements and amenities including paving, landscaping, lighting and street furniture.
 - 3. Building and site dimensions, including setbacks and other dimensions subject to zoning requirements.
 - 4. Any site improvements or areas proposed to be developed by some other party (including identification of responsible party).
 - 5. Proposed site grading, including typical existing and proposed grades at parcel lines.
- c. Site sections at an appropriate scale (e.g., 1" = 16' or as determined after approval of SCHEMATIC DESIGN).
- d. Building plans (including preliminary structural and mechanical drawings), sections and elevations at an appropriate scale (e.g., 1" = 8') developed from approved schematic design drawings. Elevations shall show the project in the context of the surrounding area as required by the Authority to illustrate relationships of character, scale and materials. All plans, sections and elevations

shall reflect the impact of proposed structural and mechanical systems on the appearance of exterior facades, interior public spaces, and roofscape.

- e. Large-scale (e.g., 3/4" = 1'-0") typical exterior wall sections, elevations and details sufficient to describe specific architectural components, methods of their assembly and character.
- f. Outline Specifications of all materials for site improvements, exterior facades, roofscape, and interior public spaces.
- g. Study model at an appropriate scale (e.g., 1" = 16', or as determined after approval of Schematic Design) showing refinements of facade design.
- h. Shadow studies and quantitative wind impact analysis at pedestrian levels showing the effect of the project on the surrounding area with particular attention to nearby public spaces including sidewalks, parks, and plaza's.
- i. Eye-level perspective drawings showing the project in the context of the surrounding area.
- j. Proposed schedule for submission of Contract Documents.

Upon approval by the Authority of the DESIGN DEVELOPMENT, the following submission is required:

3. CONTRACT DOCUMENTS

The intent of this review is to secure agreement on the detailed design of the proposal. The following materials are required:

- a. Written description of the project, (including all program elements and space allocation for each element) and zoning calculations.
- b. Site plan showing all site development and landscape details for lighting, paving, planting, street furniture, utilities, grading, drainage, access, service, and parking.
- c. Complete architectural and engineering Drawings and Specifications.
- d. Full-size assemblies (at the project site) of exterior materials and details of construction.
- e. Eye-level perspective drawings or presentation model that accurately represents the project, and a rendered site plan showing all adjacent existing and proposed structures, streets and site improvements.
- f. Site and building plan at 1" = 100' for Authority use in updating its 1" = 100' Photogrammetric Map Sheets.
- g. Construction schedule for the project.

During preparation of the Contract Documents, it is the developer's responsibility to notify the Authority, promptly and secure its approval of all changes from the approved Design Development Drawings that are contemplated for site improvements, exterior facades, roofscape and interior public spaces. Progress Drawings representing 50% completion of the Contract Documents may be required for review by the Authority.

Upon approval by the Authority of this CONTRACT DOCUMENTS, the following submissions are required:

4. CONSTRUCTION INSPECTION

- a. All Contract Addenda, Change Orders, and other modifications and revisions of approved Contract Documents which affect site improvements, exterior facades, roofscape, and interior public spaces.
- b. Shop drawings of architectural components which differ from, or were not fully described in Contract Documents.

Site visits will be conducted to insure construction of the project in accordance the approved Contract Documents.

Exhibit E

Arbitration of Design Review Impasse

In an effort to avoid prolonged and costly delays in agreement upon Design Materials for Design Development or Contract Documents, Tenant and Landlord agree to the following procedure to assist in resolving Design Review Impasses arising in the Design Review Procedure.

The parties have agreed to a panel of three persons to which unresolved design issues as described in Article 7 will be submitted for advice. The panel shall consist of the deans of the following schools of architecture or their respective designees:

1. Harvard University School of Design;
2. Massachusetts Institute of Technology School of Architecture and Planning;
3. Boston Architectural Center.

The dean of the Harvard University School of Design shall serve as Chairman.

When either the Landlord or Tenant shall serve notice in accordance with said Article 7 of its intent to submit a Design Review Impasse to the foregoing panel, a copy of such notice shall be sent to each panel member. Such notice shall be accompanied by copies of all prior submissions of the Design Materials which are the subject of the Design Review Impasse and all notices of disapproval issued by Landlord in response thereto. Upon receipt of any such notice the Chairman of the panel shall, after consultation with the other panel members and the parties, select a date, time and place for a meeting of the full panel with Landlord and Tenant, which date shall be no later than ten (10) business days following the date of the notice invoking the provisions of this exhibit.

At the meeting of the panel so scheduled, Landlord and Tenant shall make such presentations and submit such Design Materials to the panel as they think necessary or desirable for the understanding of the Design Review Impasse in dispute. The panel may request the preparation of additional material including, without limitation, sketch designs, details, or samples or catalog cuts of materials. All such materials requested by the panel shall be

submitted by the party of whom such material is requested no later than three (3) business days following the date of the meeting with the panel.

No later than five (5) business days following the meeting among the panel, Landlord, and Tenant, the panel shall issue a written decision suggesting a resolution of the Design Review Impasse in dispute, which resolution may be in favor of the position maintained by either the Landlord or Tenant or may be a compromise position promulgated by the panel. The decision of the panel shall be advisory to Landlord, which shall retain the ultimate right and obligation to approve Design Materials, but such decision shall be given great weight by the Landlord in its consideration of Design Materials. If, notwithstanding the advice of such panel, the staff of Landlord is unwilling to recommend approval of Design Materials consistent with the decision of the panel, Tenant shall have the right to request consideration by the Board of Landlord of the subject matter of the Design Review Impasse and the advice of the panel.

In exercising the responsibilities conferred upon the panel in the foregoing process, the panel shall be asked to take into account both (i) aesthetic considerations and (ii) development feasibility considerations such as cost, marketability, and construction complexity and duration.

THE CONDOMINIUM AT ROWES WHARF

350 Atlantic Avenue
Boston, Massachusetts

MASTER DEED

1. Submission to Condominium Status. THE BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate organized under the laws of the Commonwealth of Massachusetts (the "Authority"), being the sole owner of the land in Boston, Suffolk County, Massachusetts known as Rows and Foster Wharves described in Schedule A attached hereto and made a part hereof and all easements, rights and appurtenances belonging thereto (the "Land"), and ROWES WHARF ASSOCIATES, a joint venture between The Equitable Life Assurance Society of The United States, a New York Corporation, and Rows Wharf Limited Partnership, a Massachusetts limited partnership (said joint venture being referred to herein as "Associates"), being the sole owner of the buildings and improvements on the Land (collectively the "Buildings") and the lessee of the Land pursuant to Ground Lease dated _____ between the Authority and Associates, notice of which is recorded with Suffolk Registry of Deeds in Book _____, Page _____, do

hereby submit the Land and Buildings (collectively, the "Property") to the provisions of Chapter 183A of the General Laws of the Commonwealth of Massachusetts as amended to the date of recording of this Master Deed (as so amended "Chapter 183A"), and hereby state that they propose to create and do hereby create with respect to the Property a condominium to be governed by and subject to the provisions of Chapter 183A, said condominium being hereby created under the authority of Section 21 of Chapter 183A (the "Condominium"). In furtherance of the foregoing, the Authority includes in said submission to the provisions of Chapter 183A for purposes of creating the Condominium all of its right, title and interest, if any, in the Buildings.

The Condominium is subject to the restrictions in favor of the Authority set forth in Schedule A (the "Restrictions").

2. Name of Condominium. The Condominium is to be known as THE CONDOMINIUM AT ROWES WHARF (the "Condominium").

3. Description of Buildings. The improvements constructed by Associates on the Land consist of four structures as follows:

(a) a building containing a dock level and 15 stories (including the ground floor) and a mechanical penthouse on the roof (the "Atlantic Avenue Building");

(b) a building containing a dock level and eight stories (including the ground floor) and a mechanical penthouse on the roof (the "North Wharf Building");

(c) a building containing a dock level and six stories (including the ground floor) and a mechanical penthouse on the roof (the "Central Wharf Building");

(d) a building containing one story at dock level (the "Ferry Pavilion").

The improvements further include five below-grade levels located in substantial part below the Atlantic Avenue Building, as shown on the Plans (the "Basement Levels"). The Atlantic Avenue Building and the North Wharf Building are connected by an enclosed pedestrian bridge (the "Pedestrian Bridge"). The structures described in this Paragraph are constructed primarily of structural steel and concrete and masonry. The Buildings and the Units are shown on the site and floor plans referred to in Paragraph 9 below (the "Plans").

4. Description of Units. The Buildings described in clauses (a), (b) and (c) of Paragraph 3 have been divided into three condominium units, designated and to be used as follows, as shown on the Plans:

(a) the "Office/Retail Unit" to be used for office, retail and other purposes, as set forth in Paragraph 9;

(b) the "Hotel Unit" to be used for hotel, restaurant, health club and other purposes, as set forth in Paragraph 9; and

(c) the "Reserved Unit" to be used for any lawful purpose, as set forth in Paragraph 9.

The Office/Retail Unit is located on Basement Levels, and on floors one through seven in the Atlantic Avenue Building, and within the Central Wharf Building, as shown on the Plans. The Hotel Unit is located on Basement Levels, and on floors one, two and eight through fifteen in the Atlantic Avenue Building as shown on the Plans. The Reserved Unit is located on Basement Levels, on floors one, two and eight through fifteen in the Atlantic Avenue Building, and within the North Wharf Building, as shown on the Plans.

The Office/Retail Unit includes, without limitation:

(a) the Central Wharf Building, as shown on the Plans, excluding the mechanical penthouse, the dock level and portions of said Building outside the Unit boundaries described below;

(b) all portions of the Atlantic Avenue Building designated Office/Retail on the Plans, including, without limitation, all entrances and lobbies and all elevators and stairwells so designated;

(c) all portions of the Basement Levels designated Office/Retail Storage or Office/Retail Service on the Plans; and

(d) all utility services, lines, pipes, wires, vents, flues, chimneys, ducts, cables, conduits, antennas, utility lines, installations and building service equipment serving only the Office/Retail Unit.

The Hotel Unit includes, without limitation:

(a) all portions of the Atlantic Avenue Building designated Hotel on the Plans, including, without limitation, all entrances and lobbies and all elevators and stairwells so designated;

(b) all portions of the Basement Levels designated Health Club on the Plans (the "Health Club");

(c) all portions of the Atlantic Avenue Building and Basement Levels designated Hotel Storage/Hotel Service on the Plans;

(d) all utility services, lines, pipes, wires, vents, flues, chimneys, ducts, cables, conduits, antennas, utility lines, installations and building service equipment serving only the Hotel Unit;

The Reserved Unit includes, without limitation:

(a) the North Wharf Building, as shown on the Plans, excluding the mechanical penthouse, the dock level and portions of said Building outside the Unit boundaries described below;

(b) all portions of the Atlantic Avenue Building designated Reserved on the Plans including, without limitation, all entrances and lobbies and all elevators and stairwells so designated;

(c) the Pedestrian Bridge;

(d) all portions of the Basement Levels designated Reserved Storage or Reserved_ Service on the Plans; and

(e) all utility services, lines, pipes, wires, vents, flues, chimney ducts, cables, conduits, antennas, utility lines, installations and building service equipment serving only the Reserved Unit.

The Office/Retail Unit, the Hotel Unit and the Reserved Unit are together called the "Units". The designation of each Unit, together with a statement of its location, its approximate area, the immediate common area to which it has access, and its proportionate interest in the common areas and facilities (the "Common Elements") are set forth in Schedule B attached hereto and made a part hereof.

The boundaries of the Units are as follows:

(a) Floors: The unfinished upper surfaces of the concrete floors, and the sides of any opening therein between the portions of any Unit.

(b) Ceilings: The unfinished lower surfaces of the metal decks or steel structure, and the sides of any opening therein between the portions of any Unit.

(c) Walls: The plane described by the surfaces, on the Unit side, of the studs designed to serve as the framework of each wall separating the Unit from another Unit, from any areas which are Common Elements or from the exterior of the Building, provided that where such wall is concrete or other masonry material, the boundary shall be the plane formed by the concrete or other masonry material on the Unit side.

(d) Doors and Windows: The unfinished faces, on the Unit side, of each window or door opening into areas which are Common Elements or to the exterior of the Building.

5. Description of the Common Elements. The Common Elements of the Condominium consist of the entire Property, including without limitation the following, except the Units and such of the following as are by the Plans specifically made part of any Unit:

(a) the Land and all plaza areas, yards, lawns, docks, landscaping, and walkways located thereon, and all lighting (including without limitation, wiring, conduit and switches thereto) equipment, canopies, trash receptacles, benches and the like, and other fixtures on the Land which are not located in the Buildings;

(b) the Ferry Pavilion, the Ferry Terminal and the Marina, as designated on the Plans, and all electrical and mechanical systems and all fixtures and equipment installed therein;

(c) the foundation, bulkhead, under-slab drainage system, the slurry wall, all footings, structural walls, structural slabs, structural piles and related bents and deck, columns, beams, girders and supports, the concrete floor and metal deck of each story; the curtain wall and all exterior windows, the roof and roof structures, and all walls dividing a Unit from another Unit or from a Common Element (other than drywall at the Unit side thereof);

(d) all portions of the Basement Levels designated Parking Garage on the Plans, including, without limitation, ramps and offices so designated (the "Garage"), and all mechanical, electrical and other systems located therein, provided, however, that the Reserved Unit shall have the exclusive right to use 135 parking spaces in the Garage (the location of said spaces to be as designated from time to time by the Board of Managers of the Condominium Association), which right to use one or more of such parking spaces may be leased, rented or assigned, and the Hotel Unit shall have the exclusive right to use 190 parking spaces in the Garage (the location of said spaces to be as designated from time to time by the Board of Managers of the Condominium Association), which right to use one or more of such parking spaces may be leased, rented or assigned;

(e) all portions of the Basement Levels designated Loading Dock on the Plans, including, without limitation, all ramps and offices so designated;

(f) the Balconies as designated on the Plans, provided, however, that each Unit Owner whose Unit has direct access to a balcony from the interior of its Unit shall have an exclusive right to use such balcony (subject to reasonable access by the Condominium Association for the purpose of maintaining the building exteriors), which right shall be and remain appurtenant to the Unit;

(g) the Transformer and Switchboard Rooms as designated on the Plans, the emergency generator, incoming service, cables and vault area, secondary service cables from the utility company transformers and service switchboard; service switchboard and switch gears; conduits, wires, feeders, up to the meters serving an individual Unit exclusively; telephone systems not serving any Unit exclusively; the aircraft obstruction lighting system and the lightning protection system, and the security and master TV antenna system;

(h) the central chilled water system, including all electric chillers, cooling towers, condenser water and chilled water systems, with associated pumps, piping, valves, anchors, guides, expansion loops and joints, automatic chemical water treatment system, bypass valves and piping, valved outlets, and flow meters, up to the valves associated with any system serving an individual Unit exclusively;

(i) the domestic cold water and sewer systems, including, without limitation, incoming utility service, plumbing fixtures and equipment for distribution of cold water (including pumps, valves, pressure reducers and meters); all equipment required for distributing domestic cold water to an incoming valve into each individual Unit; all storm and sanitary sewer equipment (including, without limitation, vent lines, ejectors and pumps,

interceptors, filters and valves) and the sewage holding tanks; and metering devices, up to the valves associated with any system serving an individual Unit exclusively;

(j) the fire and life safety system including, without limitation, stair pressurization systems, dry pipe and wet pipe sprinkler systems, fire pumps and jockey pumps, fire extinguishers, fire detection, alarm and communication systems, door unlocking and holding devices, central control station fire command center, remote enunciator panels, fire mode, wiring, raceways and associated devices, and all egress stairways designated Common on the Plans;

(k) building management system, including, without limitation, the pneumatic control system (including, without limitation, the HVAC control, monitoring and energy management functions), computer and associated hardware and software, all associated keyboard display, printer and central and remote monitoring stations, all wiring, raceways and equipment associated with the building management system;

(l) the following elevators and corresponding elevator shafts: the Garage Passenger Elevators, the Reserved Passenger Elevator Number 1, and the Hotel Service Elevator Number 1, all as designated on the Plans;

(m) all Mechanical Rooms, Mechanical Penthouses and Fan Rooms as designated on the Plans;

(n) the Emergency/Standby Power and Lighting System including, without limitation, the emergency engine generator set and diesel fuel tank, flue and exhaust system, and related controls, battery packs, busways, wiring, switch boards and panel boards;

(o) all portions of the Basement Levels designated Mail Rooms, Engineer's Office, Engineer's Facility Room, Building Storage, Computer Room, Carpentry Shop, Bottle Room, Trash Room and Clerk's Office on the Plans;

(p) all mechanical systems which are used by more than one Unit, including, without limitation, all fans, ducts, dampers, associated motors and wiring, controls and all grills and fusers;

(q) all other installations which are used by more than one Unit; and

(r) Dock Levels and all other portions of the Property designated Common on the Plans.

6. Special and General Common Elements. There are appurtenant to the Hotel and Office/Retail Unit the exclusive right and easement, in common with each other, to use the Hotel Service Elevator Number 1. There are appurtenant to the Reserved and Office/Retail Unit the exclusive right and easement, in common with each other, to use the Reserved Passenger Elevator Number 1. The Hotel Service Elevator Number 1 and the Reserved Passenger

Elevator Number 1 are designated Special Common Elements. All Common Elements which are not Special Common Elements are designated General Common Elements.

The Unit Owners shall pay to the Condominium Association the cost of operation, repair, maintenance, replacement, and additions to their respective Special Common Elements, and the cost of labor, equipment, materials, management, operation, and supervision thereof including the cost of providing all casualty and liability insurance solely allocable to the use of their respective Special Common Elements, in accordance with Paragraph 8 of this Master Deed and the By-Laws ("Special Common Element Costs"). The Special Common Element Costs associated with the Hotel Elevator Number 1 shall be allocated 90% to the Hotel Unit and 10% to the Office/Retail Unit, and those associated with the Reserved Passenger Elevator Number 1 shall be allocated 90% to the Reserved Unit and 10% to the Office/Retail Unit.

7. Charges to Unit Owners for Use of Special Common Elements. The Condominium Association shall be empowered and obligated to levy assessments on the Office/Retail Unit Owner, the Hotel Unit Owner and the Reserved Unit Owner for their share of the Special Common Element Costs relating to their respective Special Common Elements as set forth in paragraph 6 hereof (which are collectively hereinafter referred to as Special Common Charges). Each Unit Owner by acceptance of a Unit Deed therefor

(whether or not it is so expressed in such deed), shall be deemed to covenant and agree with Associates and with each successive Owner of another Unit as a personal obligation to pay all Special Common Charges coming due with respect to said Unit while said Unit Owner is the owner thereof with interest thereon and costs of collection thereof. The Unit Owner at the time when a Special Common Charge falls due shall continue to be personally liable therefor notwithstanding any conveyance of the Unit and the successors in title to such Unit shall not be personally liable therefor unless they expressly assume such liability.

Additionally, all Special Common Charges with respect to any Unit, with interest thereon and costs of collection thereof, shall be a charge and a continuing lien on such Unit in favor of the other Unit Owners enforceable by the Condominium Association which shall bind such Unit in the hands of the then Unit Owner, and its successors in title and assigns.

If any Special Common Charge is not paid on the date when it falls due, the assessment shall bear interest from the date on which it fell due at the greater of (a) ten (10%) percent per annum, or (b) two (2%) percent per annum over the prime rate of interest charged by the Bank of Boston, N. A. from time to time, but not in any event in excess of the maximum lawful rate, and the Condominium Association may bring a civil action against the Unit Owner personally obligated to pay the same or to foreclose the

lien against the Unit (or for both remedies in the alternative), and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorneys' fees together with the costs of the action.

The lien of the assessments provided for herein shall be subject and subordinate to any Institutional Mortgage upon any Unit subject to assessment, provided, however, that said subordination to any Institutional Mortgagee shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Unit pursuant to a foreclosure, or any other proceeding in lieu of foreclosure. The lien of the assessments provided for herein shall also be subject and subordinate to the Lease dated _____ from the Authority to Associates of the Office/Retail Unit, notice of which is recorded with Suffolk Registry of Deeds in Book _____, Page _____, and to all subleases ("Subleases") thereof heretofore or hereafter entered into. Without limiting the foregoing, no foreclosure of the lien of the assessments provided herein shall result in a termination of either the Lease or any of the Subleases, and no subtenant under any of the Subleases shall be named or joined in any action or proceeding brought by the Trustees to obtain payment of said assessments. Such sale or transfer shall not relieve such Unit

from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments, nor shall it relieve the owner of such Unit before such sale or transfer from personal liability for any assessments which became due and payable prior thereto. The term "Institutional Mortgage" shall mean a mortgage held by any of the following:

(a) a (i) bank (which term shall include a wholly-owned subsidiary of a bank), (ii) insurance company, (iii) savings and loan association, (iv) trust company, or (v) a corporation, trust or association qualifying as a real estate investment trust under the provisions of Section 856 of the Internal Revenue Code, as amended (or like future provisions of such Code), provided as to any entity included in (i) through (v) above it is chartered under the laws of The United States of America or any state thereof, and has a principal place of business in one of such states and a combined capital and surplus account (or, in the case of a mutual company, the equivalent thereof) of not less than \$300,000,000;

(b) an educational institution with a capital endowment of not less than \$300,000,000;

(c) a pension fund established by and for any domestic or foreign business corporation or corporations, or by and for any group of employees of a governmental body or bodies or of a religious or educational institution or institutions or for any trade

union, and, in each such case, having a net worth, determined in accordance with sound, conservative accounting practice, of not less than \$300,000,000;

(d) the Authority.

Such capital and surplus account (under subparagraph (a) above), capital endowment (under subparagraph (b) above), and net worth (under subparagraph (c) above) of \$300,000,000 shall be applied to the aggregate of such accounts, endowments and net worths of participating entities in a single loan transaction.

The Condominium Association shall promptly provide any Unit Owner so requesting the same in writing with a written statement of all unpaid Special Common Charges due from such Unit Owner in form suitable for recording. Recording such statement with the Suffolk County Registry of Deeds shall operate to discharge said Unit from any lien for any other Special Common Charges unpaid as of the date of such statement.

8. Floor Plans and Site Plan. There are recorded herewith a site plan, elevations, cross-sectional plans and floor plans of the Buildings showing the layout, location, Unit numbers, and dimensions of the Units, stating the name of the Buildings and bearing the verified statement of a registered architect, registered professional engineer or registered land surveyor certifying that the plans fully and accurately depict the layout, location, Unit numbers and dimensions of the Units as built.

9. Use of Units. The Office/Retail Unit may be used for office, retail, and accessory purposes, and for any other purpose prohibited neither by the Restrictions, the By-Laws of the Condominium Association, and rules and regulations promulgated pursuant to the By-Laws, nor by any applicable law, rule, regulation, ordinance or court order or decree.

The Hotel Unit may be used for hotel, restaurant and health club purposes and accessory purposes, and for any other purpose prohibited neither by the Restrictions, the By-Laws of the Condominium Association and rules and regulations promulgated pursuant to the By-Laws, nor by any applicable law, rule, regulation, ordinance or court order or decree.

The Reserved Unit may be used for any purpose prohibited neither by the Restrictions, the By-Laws of the Condominium Association and rules and regulations promulgated pursuant to the By-Laws, nor by any applicable law, rule, regulation, ordinance or court order or decree.

Any Unit Owner may create a separate condominium (a "Second Tier Condominium") within the Condominium subdividing his Unit (herein, the "First Tier Unit") into two or more individual units, each such unit to be a separate unit ("Second Tier Unit") within the Second Tier Condominium, by subjecting his Unit to a second master deed (a "Second Tier Master Deed"). Under a Second Tier Master Deed, all portions of the affected Unit not included in any

Second Tier Unit shall constitute the common areas and facilities of the Second Tier Condominium. Use of said Second Tier Units shall be subject to restrictions, rules and regulations contained in or promulgated pursuant to this Master Deed and the By-Laws of the Condominium Association, as well as to those contained in or promulgated pursuant to the Second Tier Master Deed and the By-Laws of the condominium association of the Second Tier Condominium.

The Unit Owners shall join in the Second Tier Master Deed of another Unit Owner to the extent required to create a Second Tier Condominium and to accomplish the purposes of this subparagraph and shall execute all other documents necessary in connection therewith. The Unit Owners shall agree and the Second Tier Master Deed shall provide that any and all liens on the First Tier Unit within which said Second Tier Condominium is created, arising by virtue of Section 6 of Chapter 183A or this Master Deed shall be subordinate to the Second Tier Condominium, provided, however, that in the event that any Common Charges or Special Common Charges due from the owner of said First Tier Unit are not paid when due, the Condominium Association shall have a lien on each Second Tier Unit to the extent that the owner of a Second Tier Unit has failed to pay any Common Charges or Special Common Charges due with respect to the Second Tier Condominium. In the event a Second Tier Condominium is created in phases, the Unit

Owners shall join in all amendments to such Second Tier Master Deed and other documents necessary in connection therewith. All mortgages on the Units are subject and subordinate to the within rights of the Unit Owners to create Second Tier Condominiums, and to any Second Tier Master Deed (and all amendments thereto, if a Second Tier Condominium is created in phases) and the Second Tier Condominium created thereby.

The owners and tenants of each Unit shall have the right within their respective Units to construct the interior portions of their Units, in pursuance of the purposes permitted herein, and in connection therewith, to relocate Common Elements within their respective Units, provided that any such construction or relocation (i) shall be consistent with the operation and maintenance of the respective Units as a first-class facility, (ii) shall not interfere unreasonably with the use of any other Unit and rights appurtenant thereto nor impair the structural integrity or mechanical systems of the Condominium, nor unreasonably interrupt service to other parts of the Condominium, and (iii) such construction or relocation shall be subject to the Restrictions. After completion of construction of the interior portions of their respective Units, the owners and tenants of each Unit shall thereafter have the right to alter, construct and remove walls, floors and ceilings of their respective Units, relocate Common Elements within their respective Units and make other improvements and

alterations therein provided that any such alteration, construction, relocation or removal (i) shall be consistent with the operation and maintenance of the respective Unit as a first-class facility, (ii) shall not interfere unreasonably with the use of any other Unit and rights appurtenant thereto nor impair the structural integrity or mechanical systems of the Condominium or unreasonably interrupt services to other parts of the Condominium, and (iii) shall be subject to the Restrictions. The owner of the Office/Retail Unit or the Hotel Unit or a tenant of all or part of the Office/Retail Unit or the Hotel Unit may erect, repair and replace marquees, awnings, signs and other devices, structures and displays which serve to identify the name and/or business of such owner or tenant and which are reasonably in keeping with the first-class image of the Improvements.

The architectural integrity of the features of the Reserved Unit visible from the exterior of the Buildings and from the hallways included within the Common Elements shall be preserved without modification, and to that end no marquee, awning, screen, antenna, sign, banner or other device, and no addition, structure, projection, painting, decoration or other feature shall be erected or placed upon or attached to the Reserved Unit or Common Elements therein, or any part thereof (including the interior surface of any window) so as to be visible from the exterior of the Buildings or from the hallways included within the Common Elements thereof,

except with the prior written consent of the Board of Managers of the Condominium; provided, however, that the provisions of this subparagraph shall not restrict the right of the Reserved Unit Owner or any owner of a Second Tier Unit within the Reserved Condominium which may be created as provided herein to decorate the interior of his Second Tier Unit as he may desire.

No Unit Owner shall cause or permit to exist in his Unit, nor shall he cause or permit any occupant of his Unit or invitee to cause anywhere in or about the Property, any nuisance, any offensive noise, odor or fumes or any hazard to health.

10. Amendment of Master Deed. Except as otherwise provided by law and this Paragraph 10, this Master Deed may only be amended by the vote of Unit Owners owning at least sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the undivided interest in the Common Elements, cast in person or by proxy at a meeting duly held in accordance with the provisions of the By-Laws, or in lieu of such vote, any amendment may be approved in writing by Unit Owners owning at least sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the undivided interest in the Common Elements; provided, however, that no such amendment hereto shall change the configuration or size of any Unit in any material fashion, the percentage of undivided interest in the Common Elements appurtenant to a Unit, nor a Unit's voting rights in the Condominium Association, unless all of the record owners of such Unit and all of the mortgagees of record

holding mortgages on such Unit and all lessees of record of such Unit consent thereto in writing. No amendment shall be effective until a certificate thereof signed and acknowledged by any two members of the Board of Managers of the Condominium Association shall have been duly recorded with Suffolk Registry of Deeds.

Notwithstanding the above, if Associates determines that a typographical error, misnomer, inadvertent omission or any other error has been made in this Master Deed, the Authority and Associates, without further authority, shall have the right to correct any such error by an instrument amending the Master Deed and recorded with said Deeds, provided however that no such amendment shall materially affect any substantive right or interest of any Unit Owner in his Unit or the Common Elements.

11. Organization of Unit Owners. An unincorporated association of Unit Owners through which the Unit Owners will manage and regulate the Condominium has been formed and has enacted By-Laws (the "By-Laws") pursuant to Chapter 183A. The name of the association is THE ROWES WHARF CONDOMINIUM ASSOCIATION (the "Condominium Association"). The names of the members of the first Board of Managers of the Condominium Association (the "Board of Managers") and the Unit Owner or Owners entitled to appoint or elect their successors are:

Name

Successors Appointed
or Elected By

12. Determination of Percentage Interest in Common Elements.

The percentages of interest of the respective Units in the Common Elements as set forth in Exhibit B hereto have been determined upon the basis of the approximate relation which the fair value of each Unit on the date hereof bears to the aggregate fair value of all the Units on this date.

13. Encroachments. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, or if any such encroachment shall occur hereafter as a result of (a) settling of the Building, or (b) alteration or repair to the Common Elements made in accordance with this Master Deed, or (c) as a result of repair or restoration of the Building or of any Units after damage by fire or other casualty, or (d) as a result of condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for the maintenance of the same to the extent of and for the duration of such encroachment.

14. Common Elements Located Inside of Units, Etc. Each Unit Owner shall have an easement in common with the owners of all other Units to use all pipes, wires, ducts, flues, cables, conduits, public utility lines and other Common Elements located in any of the other Units and serving his Unit. Each Unit shall be subject to an easement in favor of the owners of all other Units to use the pipes, wires, ducts, flues, cables, conduits, public

utility lines and other Common Elements serving such other Units and located in such Unit. The Board of Managers shall have a right of access to each Unit to inspect the same, to remove violations therefrom and to install, maintain, repair, replace and relocate pipes, wires, ducts, flues, cables, conduits, public utility lines and other Common Elements within or accessible from such Unit. Where an emergency fire exit leads to a Unit, said Unit shall be subject to an access easement in favor of the owners of the other Units to reach the Common Elements in the event of emergency. Any installation, replacement or relocation of Common Elements within a Unit shall be located above ceiling surfaces, below floor surfaces or within walls. Except in an emergency, any right of access to a Unit granted in this Paragraph 14 shall be exercisable only after reasonable advance notice and with reasonable efforts to minimize interference with use of such Unit. A Unit shall promptly be restored to its prior condition after completion of any work in the Unit conducted pursuant to any right of access granted in this Paragraph 14.

15. Acquisition of Units by Board of Managers. In the event (a) any Unit Owner shall surrender or convey his Unit to the Board of Managers, together with: (i) his undivided interest in the Common Elements appurtenant thereto; (ii) his interest in any other Unit acquired by the Board of Managers or its designee on behalf of all Unit Owners or the proceeds of the sale or lease thereof,

if any; (iii) his interest in any other assets of the Condominium; and (iv) his easements and rights to exclusive use of those Common Elements set forth in Paragraph 5 hereof (items (i), (ii), (iii) and (iv) immediately above are hereinafter collectively called the "Appurtenant Interests"); or (b) the Board of Managers shall purchase, at a foreclosure or other judicial sale, or otherwise, a Unit, together with the Appurtenant Interests; then in either of such events title to any such Unit, together with the Appurtenant Interests, shall be acquired and held by the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners, in proportion to their respective interests in the Common Elements. The share of Common Expenses which may otherwise be chargeable to the Unit acquired by the Board of Managers shall not be assessed against such Unit, but shall be paid by the owners of the other Units in the Condominium in proportion to their respective interests in the Common Elements.

16. Units Subject to Master Deed, Unit Deed, By-Laws and Rules and Regulations. All present and future owners, tenants, visitors, servants and occupants of any Units (and any Second Tier Units as such may be created) shall be subject to, and shall comply with, the provisions of this Master Deed, the deeds of such Units and Second Tier Units, the By-Laws and Rules and Regulations of the Condominium Association, as they may from time to time be amended, and the Restrictions (collectively herein referred to as

the "Documents"). The acceptance of a deed or the entering into occupancy of any Unit or Second Tier Unit shall constitute an agreement that (a) the provisions of the Documents are accepted and ratified by such owner, tenant, visitor, servant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time an interest or estate in such Unit or Second Tier Unit, as though such provisions were recited and stipulated at length in each and every deed or lease thereof, and (b) a violation of the provisions of the Documents by any such person shall be deemed a substantial violation of the duties of the respective Unit or Second Tier Unit Owner. No termination of this Condominium shall effect a termination of any Sublease.

17. Invalidity. The invalidity of any provision of this Master Deed shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Master Deed and, in such event, all of the other provisions of this Master Deed shall continue in full force and effect as if such invalid provisions had never been included herein.

18. Waiver. No provision contained in this Master Deed shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violation or breaches which may occur.

19. Captions; Context. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Master Deed nor the intent of any provision hereof.

IN WITNESS WHEREOF, the undersigned have caused this Master Deed to be executed under seal this __ day of _____, 198_.

THE BOSTON REDEVELOPMENT AUTHORITY

By: _____

ROWES WHARF ASSOCIATES

By: Rowes Wharf Limited Partnership,
a general partner

By: _____
A General Partner

By: Equitable Life Assurance Society
of the United States

By: _____
Its

SCHEDULE A

Parcel A

A parcel of land and water known as Rowes and Fosters Wharves, on Atlantic Avenue in Boston, Suffolk County, Massachusetts, bounded and described as follows:

Beginning at a point on the easterly sideline of Atlantic Avenue, said point being the northwest corner of the property to be described, said property being now or formerly of the Boston Redevelopment Authority, said point of beginning having a Massachusetts Coordinate System value of $X=721,346.69$ and $Y=494,815.18$;

Thence running $N 71^{\circ} 12' 21'' E$ along land or formerly of First City Developments Corp. of Boston - Harbor Towers II, a distance of six hundred forty-six and $50/100$ (646.50) feet to a point on the State Harbor Line and former United States Pierhead & Bulkhead Line established by the War Department on April 24, 1940;

Thence turning and running $S 28^{\circ} 55' 55'' W$ along said State Harbor Line and former United States Pierhead & Bulkhead Line a distance of eight hundred fifty and $01/100$ (850.01) feet to a point;

Thence turning and running $N 69^{\circ} 05' 34'' W$ along a line perpendicular to the Harbor Line in Boston Harbor established by Chapter 170 of the Acts of 1880 a distance of thirty-three and $12/100$ (33.12) feet to a point;

Thence turning and running $N 78^{\circ} 09' 39'' W$ along land now or formerly of Atlantic Avenue Limited Partnership, a distance of two hundred one and $29/100$ (201.29) feet to a point;

Thence turning and running $N 9^{\circ} 10' 35'' E$, along the easterly sideline of said Atlantic Avenue, a distance of two hundred thirty-one and $00/100$ (231.00) feet to a point;

Thence turning and running N 2° 11' 11" W along the easterly sideline of said Atlantic Avenue, a distance of two hundred fifty-four and 67/100 (254.67) feet to the point of beginning,

said parcel containing 234,224 square feet, more or less and being shown on a plan entitled "Property Line Plan for The Beacon Companies, Atlantic Avenue, Boston, Massachusetts" dated April 16, 1984, Scale 1 inch = 40 feet, prepared by Cullinan Engineering Co., Inc., recorded with Suffolk Registry of Deeds at Book 11419, Page 10.

Parcel B

That certain parcel of land beneath the surface of Atlantic Avenue in Boston, Suffolk County, Massachusetts shown on a plan entitled "Taking Plan, Rows Wharf/Fosters Wharf Redevelopment Project, Boston Redevelopment Authority, Boston (Suffolk County) Massachusetts" prepared by Cullinan Engineering Co., Inc., Civil Engineers & Land Surveyors, Scale 1" = 20', dated November 27, 1984 recorded with Suffolk Registry of Deeds at Book 11351, Page 193, bounded and described as follows:

Beginning at a point on the easterly sideline of Atlantic Avenue, said point being the northeast corner of the property to be described, said property being now or formerly of the Boston Redevelopment Authority, said point of beginning having a Massachusetts Coordinate System value of X=721,346.69 and Y=494,815.18;

Thence turning and running S 2° 11' 11" E along the easterly sideline of said Atlantic Avenue, a distance of two hundred fifty-four and 67/100 (254.67) feet to a point;

Thence turning and running S 9° 10' 35" W, along the easterly sideline of said Atlantic Avenue, a distance of two hundred eight and 81/100 (208.81) feet to a point;

Thence turning and running N 78° 09' 39" W along land now or formerly of the City of Boston, a distance of eleven and 09/100 (11.09) feet to a point;

Thence turning and running in an arc curving to the left having a radius of one thousand two hundred thirty-four and 88/100 (1,234.88) feet for a distance of four hundred fifty-seven

and 70/100 (457.70) feet to a point;

Thence running N 71° 12' 21" E along land of the City of Boston, a distance of eleven and 95/100 (11.95) feet to the point of beginning,

said parcel being located vertically beneath the sidewalk between elevation 19.00 and 18.60 and continuing below.

SCHEDULE A

to

MASTER DEED
(Continued)

The Boston Redevelopment Authority hereby imposes the following restrictions upon the Property, and, except as otherwise provided herein, any owner from time to time of any Unit or Second Tier Unit, or of the Property or any portion thereof (individually and collectively the "Owner"), by the acceptance of a deed of any Unit or Second Tier Unit, or of the Property or any portion thereof, (whether or not it is so expressed in any such deed) shall be deemed to covenant and agree with the Boston Redevelopment Authority and any successor public agency designated by or pursuant to law (the "Authority"), the City of Boston, and, in the case of paragraph 4 below, the United States, to comply with the restrictions set forth in this Schedule A:

1. (a) Until June 7, 2004, the Property shall be used in conformity with the land use provisions, planning objectives and other requirements for the Property contained in the Downtown Waterfront-Faneuil Hall Urban Renewal Plan, recorded with Suffolk Registry of Deeds at Book 7948, Page 527, as amended through and including July 1, 1985 but excluding any amendment subsequent to

such date (the "Plan"); and until June 7, 2004, the following further limitations shall apply to the Units hereinafter enumerated:

(i) The Reserved Unit shall not be used a hotel, as defined in Section 1 of Chapter 64G of the General Laws as in effect on July 1, 1985;

(ii) The Hotel Unit shall be used as a hotel, as so defined, an for restaurant purposes and accessory purposes but for no other use or purpose;

(iii) The Office/Retail Unit shall be used for office, retail and commercial purposes and accessory purposes but for no other use or purpose.

2. (a) Until June 7, 2004, no building or structure shall be constructed on the Property other than the Buildings, and no reconstruction, demolition, subtraction therefrom, additions thereto or extensions thereof or change in the materials, design, dimensions, or color thereof shall be made or permitted if such reconstruction, demolition, subtraction, addition, extension or change (collectively "Construction Activity") will affect in any way the external appearance of the Buildings (including the roofs, penthouses, arcades, open spaces, open water areas and landscaping but excluding the refurbishment of any lobby area) without the prior written approval or the deemed approval of the Authority in accordance with Paragraph 2(b) of this Schedule A, except that (i) restoration of the Buildings after a casualty or eminent domain taking to their condition prior to such event and (ii) completion of the Interior Completion Work, as hereinafter

defined, (with the exception of or any portion or portions thereof which affect the external appearance of public lobbies, arcades, open spaces or landscaping, or the external appearance of any Building), shall not require such approval.

(b) Whenever the prior approval or deemed approval of the Authority to any such Construction Activity is required pursuant to this Paragraph 2, the Owner proposing to undertake such Construction Activity shall submit the plans and specifications for such Construction Activity (the "Design") to the Authority. Such submission shall be prefaced with the following language printed in capital letters in bold face type:

"NOTICE
THIS REQUEST FOR APPROVAL REQUIRES IMMEDIATE REPLY
FAILURE TO RESPOND WITHIN 10 DAYS
SHALL RESULT IN AUTOMATIC APPROVAL"

The Authority shall review the Design for consistency with the planning objectives of the Plan and the original design of the Buildings, as the same may have been modified pursuant to this paragraph 2, and shall, within ten (10) days after receipt thereof either approve the Design or notify the Owner in writing of disapproval, specifying the respects in which the Design is disapproved. In its review of the Design, the Authority agrees to recognize all reasonable limitations or conditions which may be imposed upon the Design by various

federal, state and municipal permit granting authorities from which permits and approvals may be necessary for such Construction Activity.

In the event of disapproval by the Authority the Owner shall, within thirty (30) days after receipt of written notice of such disapproval, resubmit the Design altered in those respects specified by the Authority as the grounds for disapproval. The resubmission shall be subject to the review and approval of the Authority in accordance with the procedure hereinabove provided for an original submission, until the Design shall be approved by the Authority; provided, however, if the Owner shall have resubmitted such Design to the Authority altered from the prior submission in response to the Authority's grounds for prior disapproval, and the same shall again be disapproved by the Authority (a "Design Review Impasse"), either the Owner or the Authority may, by written notice to the other, invoke the provisions contained in Exhibit A-1 attached hereto.

If the Owner receives no notification from the Authority of such disapproval within ten (10) days after submission of the Design or any correction thereof, as the case may be, such Design or corrected Design shall be deemed approved.

3. Until June 7, 2004 the Owner shall endeavor to keep the Buildings in good and safe condition unless such Buildings shall

have become uninsurable or subject to causes beyond the control of the Owner; and in the occupancy, maintenance and operation of the Property the Owner shall comply with the terms and conditions of the Plan and all applicable laws, codes, ordinances rules and regulations, provided, however, that the foregoing restriction shall not be construed to limit or restrict the right of the Owner to seek and obtain variances, special permits, exceptions and waivers with respect to zoning, building code and other laws, codes, ordinances, rules and regulations applicable to the Property or to contest, by appropriate legal proceedings, the validity or applicablity of any law, code, ordinance, order, rules, regulation or requirement of any governmental agency, and the Owner may delay compliance therewith until the final determination of any such proceeding.

4. Until June 7, 2004 the duly authorized representatives of the United States, the Authority and the City of Boston shall have, at all reasonable hours and after reasonable notice to the Board of Managers and to any affected Unit Owner and to any affected lessee of a Unit or portion thereof, free and unobstructed access, for the purpose of inspection, to any Building constructed on the Property and to all open areas surrounding the same.

5. Without limitation as to time, the Owner will not discriminate upon the basis of race, color, sex, religion, age or national origin in the sale, lease, rental, use or occupancy of any Unit or Second Tier Unit, the Property, or any portion of any thereof, nor in connection with the employment or application for employment of any person for construction of any Building or portion thereof or for any business conducted on the Property. The Owner shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Owner shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination covenant. All solicitations or advertisements for employees placed by or on behalf of the Owner shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin. The restrictions and covenants contained in this Paragraph 5 shall bind any owner or

lessee of a Second Tier Unit which is occupied as the personal residence of such owner or lessee (a "Residential Occupant") only with respect to the sale, lease or rental of a Second Tier Unit.

6. In connection with the construction of Interior Completion Work, as hereinafter defined, by the Owner:

(a) The Owner shall comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, and of the rules, regulations and relevant orders of the Secretary of Labor pursuant thereto.

(b) The Owner shall send to each labor union or representative of workers with which the Owner has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Owner's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment in construction of such Interior Completion Work.

(c) The Owner shall furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor

pursuant thereto, and will permit access to the Owner's books, records, and accounts by the Authority, the Secretary of Housing and Urban Development, and the Secretary of Labor, for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(d) In the event of the Owner's noncompliance with the nondiscrimination covenants of this Schedule A, or with any of the said rules, regulations, or orders, upon written notice to the Owner, and the continuance of such noncompliance for sixty (60) days thereafter, the Owner may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, or by rule, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.

(e) The Owner will include the provisions of paragraphs (a) through (d), supra, either expressly or by incorporation by reference, in every contract or purchase order for construction of the Interior Completion Work and will require the inclusion of these provisions in every subcontract entered into by any of its

contractors, unless excepted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, so that such provisions will be binding upon each such contractor, subcontractor, or vendor as the case may be. The Owner will take such action with respect to any construction contract, subcontract, or purchase order as the Authority directs as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the Owner becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Authority the Owner may request the United States to enter into such litigation to protect the interest of the United States.

(f) As used in this Schedule A, the term "Interior Completion Work" shall mean collectively the following items of work to be constructed on the Property or within the Buildings by the Owner but shall not include any repair, alteration, demolition, or replacement thereof:

- (i) all interior partitions except partitions between each Unit in the Condominium;
- (ii) interior wall finishes;
- (iii) interior ceilings;
- (iv) interior floor finishes;

- (v) doors, frames and hardware;
- (vi) elevators and escalators;
- (vii) mechanical, electrical, plumbing, fire protection and life safety-central equipment, main risers and distribution sytsems;
- (viii) mechanical, electrical and plumbing, fire protection and life safety fixtures and fittings;
- (ix) tenant improvement work in the Office/Retail Unit for the initial occupancy tenants of the Office/Retail Unit and Furniture, Fixtures and Equipment in the Hotel Unit;
- (x) interior finishes, cabinetry and appliances for any Second Tier Unit;
- (xi) special construction and finish items;
- (xii) finishes in the individual rooms or suites of the Hotel Unit; and
- (xiii) site work and landscaping.

(g) The restrictions and covenants contained in this Paragraph 6 shall not be binding upon a Residential Occupant.

7. In connection with construction of Interior Completion Work by the Owner, the Owner shall pursue the efforts hereinafter described to employ workers in construction so that the worker hours on a craft-by-craft basis shall be performed as follows, to the extent permitted by law:

- (a) at least 50% by bona fide City of Boston residents;
- (b) at least 25% by minorities;
- (c) at least 10% by women.

For the purposes of this covenant workers hours shall include work performed by persons filling apprenticeship and on-the-job training positions. Such efforts shall consist of the following:

(a) The Owner shall incorporate in every general construction contract or construction management agreement, either expressly or by incorporation by reference, an enumeration of the foregoing worker hour goals and shall impose a responsibility upon any such general contractor or construction manager (i) to pursue the efforts enumerated herein and (ii) to incorporate such worker hour goals in all subcontracts and impose upon all subcontractors the obligation to pursue such efforts.

(b) The Owner, its contractor, and each subcontractor shall designate an individual to serve as affirmative action officer for the purpose of carrying out the efforts to achieve worker hour goals set forth herein.

(c) Contemporaneously with the start of any new construction activity, the affirmative action officers and other interested representatives of the Owner, its contractor and each subcontractor then selected shall hold a pre-job conference with appropriate union representatives of the construction trade unions for the purpose of reviewing the above worker hour goals and the manning requirements for construction activity over the life of the construction period.

(d) Each request for qualified construction workers made by any person involved in the construction of the Interior Completion Work to a union hiring hall or business agent shall contain a recitation of such worker hour goals and a request that qualified referees for construction positions be selected in the same proportion as such goals; provided, however, that if at the time of any such manning request the requesting party's workforce composition falls short of any one or more of such goals, such manning request shall seek qualified referees in such proportion among such categories as would be necessary to more fully achieve such goals. In the event that the union hiring hall or business agent to which or whom such manning request has been submitted fails to comply with such request, the affirmative action officer of such requesting party shall seek to verify that insufficient workers in the categories specified in such request are then shown on the unemployed list maintained by such union hiring hall or business agent by seeking to obtain an affidavit from the union hiring hall representative or business agent to such effect. Copies of any affidavit so obtained shall be forwarded to the Authority's affirmative action officer.

(e) All persons applying directly to a contractor or any subcontractor for employment in construction on the project who are not employed by the party to whom application is made

will be referred to the Authority's affirmative action officer and a written record of such referral shall be made, a copy of which shall be sent to such officer.

(f) The restrictions and covenants contained in this Paragraph 7 shall not be binding upon a Residential Occupant.

The restrictions and covenants provided in this Schedule A shall be covenants running with the Property, binding to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by, the Authority, the City of Boston, and, in the case of the covenant provided in paragraph 5 above, the United States, both for and in its or their own right and also to protect the interest of the community and other parties, public and private, in whose favor or for whose benefit the restrictions and covenants have been provided, against the Owner, subject to the specific exclusions heretofore provided; provided, however, that the failure of the Owner to comply with, or a violation of, any of the the foregoing restrictions or covenants will not result in a forfeiture, reversion of title, right of entry, or possibility of reverter.

Exhibit A-1

Arbitration of Design Review Impasse

In an effort to avoid prolonged and costly delays in agreement upon Design Materials for Design Development or Contract Documents, Owner and the Authority agree to the following procedure to assist in resolving Design Review Impasses arising in the Design Review Procedure.

The parties have agreed to a panel of three persons to which unresolved design issues as described in Paragraph 2 of Schedule A will be submitted for advice. The panel shall consist of the deans of the following schools of architecture or their respective designees:

1. Harvard University School of Design;
2. Massachusetts Institute of Technology School of Architecture and Planning;
3. Boston Architectural Center.

The dean of the Harvard University School of Design shall serve as Chairman.

When either the Authority or Owner shall serve notice in accordance with said Paragraph 2 of Schedule A of its intent to submit a Design Review Impasse to the foregoing panel, a copy of such notice shall be sent to each panel member. Such notice shall be accompanied by copies of all prior submissions of the Design Materials which are the subject of the Design Review Impasse and all notices of disapproval issued by the Authority in response thereto. Upon receipt of any such notice the Chairman of the panel shall, after consultation with the other panel members and the parties, select a date, time and place for a meeting of the full panel with the Authority and Owner, which date shall be no later than ten (10) business days following the date of the notice invoking the provisions of this exhibit.

At the meeting of the panel so scheduled, the Authority and Owner shall make such presentations and submit such Design Materials to the panel as they think necessary or desirable for the understanding of the Design Review Impasse in dispute. The panel may request the preparation of additional material including, without limitation, sketch designs, details, or samples or catalog cuts of materials. All such materials

requested by the panel shall be submitted by the party of whom such material is requested no later than three (3) business days following the date of the meeting with the panel.

No later than five (5) business days following the meeting among the panel, the Authority, and Owner, the panel shall issue a written decision suggesting a resolution of the Design Review Impasse in dispute, which resolution may be in favor of the position maintained by either the Authority or Owner or may be a compromise position promulgated by the panel. The decision of the panel shall be advisory to the Authority, which shall retain the ultimate right and obligation to approve Design Materials, but such decision shall be given great weight by the Authority in its consideration of Design Materials. If, notwithstanding the advice of such panel, the staff of the Authority is unwilling to recommend approval of Design Materials consistent with the decision of the panel, Owner shall have the right to request consideration by the Board of the Authority of the subject matter of the Design Review Impasse and the advice of the panel.

In exercising the responsibilities conferred upon the panel in the foregoing process, the panel shall be asked to take into account both (i) aesthetic considerations and (ii) development feasibility considerations such as cost, marketability, and construction complexity and duration.

EXHIBIT B TO THE MASTER DEED
OF
THE CONDOMINIUM AT ROWES WHARF

Unit Designa- tion	Location	Approximate Area (Square Feet)	Immediate Common Area to which Unit has Access	Propor- tionate Interest in Common Areas and Facilities (%)
Office/ Retail				47.5
Hotel				27.5
Reserved				25.0

**RESERVED UNIT
PROMISSORY NOTE**

\$ _____

Boston, Massachusetts
[Insert Date of Execution]

For Value Received, **ROWES WHARF ASSOCIATES** ("Maker"), a joint venture between The Equitable Life Assurance Society of the United States, a New York corporation, and **ROWES WHARF LIMITED PARTNER-SHIP** a Massachusetts limited partnership ("RWLP"), promises to pay to the order of **THE BOSTON REDEVELOPMENT AUTHORITY**, a public body politic and corporate organized under the laws of the Commonwealth of Massachusetts ("Holder"), the sum of [insert principal amount determined pursuant to Schedule A attached] on [insert date which is seventy (70) years from date of execution] (the "Maturity Date").

The unpaid principal balance shall bear interest equal to the sum of (i) interest on the unpaid principal balance at the "Stipulated Rate" (as hereinafter defined), plus (ii) "Contingent Interest" (as hereinafter described).

The "Stipulated Rate" shall be [Insert yield on 30-year Treasury Bonds at last auction prior to date of Note execution multiplied by 1.10], subject to adjustment as hereinafter provided. The foregoing interest rate shall be adjusted on the thirtieth (30th) and sixtieth (60th) anniversaries (each of said dates being referred to herein as an "Interest Adjustment Date") of the date of this note to equal the yield on United States Treasury Bonds having a maturity of thirty (30) years as determined at the United States Treasury Department (the "Treasury Department") auction of said bonds last preceding the applicable Interest Adjustment Date, multiplied by 1.10. If at the time of an Interest Adjustment Date the Treasury Department has not issued bonds having a thirty (30)-year maturity within the two-year period preceding the Interest Adjustment Date, the interest rate shall be adjusted to equal the yield on bonds of longest maturity issued by the Treasury Department within the two-year period preceding the Interest Adjustment Date (the "Substitute Treasury Bonds") as determined at the auction thereof last preceding the applicable Interest Adjustment Date, multiplied by 1.10, and succeeding Interest Adjustment Dates shall be advanced or postponed so as to coincide with the maturity date of the Substitute Treasury Bonds. If on any Interest Adjustment Date as it may have been advanced or postponed as aforesaid, the Treasury Department has not issued any bonds within the two-year period preceding the Interest Adjustment Date, the interest rate then in effect shall be adjusted to equal the average yield on Industrial Bonds rated Triple A by Moody's Investors Service,

Inc. (the "Corporate Bonds") as most recently published in Moody's Bond Record multiplied by 1.10. In the event said average yield is no longer published by Moody's Investor Service, Inc., there shall be substituted such report thereof as may be published by such other nationally recognized publisher of financial information as Maker shall reasonably designate. If the interest rate hereunder is adjusted based on the average yield on Corporate Bonds as aforesaid, subsequent Interest Adjustment Dates shall occur as originally scheduled hereunder. Interest at the Stipulated Rate shall be payable monthly on the first day of each month commencing [Insert first day of month next following date of Note execution] and on the first day of each month thereafter until the Maturity Date, at which time all unpaid accrued interest shall be due and payable.

Reference is made to the fact that Maker and Holder have this date jointly executed a Master Deed of the Condominium at Rowes Wharf and conveyed to Maker the Reserved Unit (the "Premises") in said Condominium. Maker contemplates executing and recording a master deed of the Premises (herein, the "Master Deed"), so as to submit the Premises to the provisions of M.G.L. Chapter 183A for purposes of creating a second-tier condominium (the "Second Tier Condominium") consisting of units to be sold to the public (the "Units") and appurtenant common areas. Holder shall be entitled to receive, as Contingent Interest, from the proceeds of each Unit and parking space sold by Maker, 10% of

- (a) the amount by which the sales price of each such Unit divided by the net square footage thereof, as defined below, exceeds the sum of (i) \$295 plus (ii) the amount derived by dividing the original principal amount hereof by the net square footage of all of the Units in the Second Tier Condominium; and
- (b) the amount by which the sales price of each such parking space exceeds \$33,000.

For purposes hereof, the "net square footage" of each Unit shall be the area thereof in square feet as set forth in the Master Deed. Said 10% of the amounts described in (a) and (b) above is referred to herein as "Holder's Share". Holder's Share of the proceeds of the sale of each Unit and parking space shall be deposited within two business days of the date of sale in an interest-bearing savings account maintained by Maker at [insert bank] (the "Proceeds Account").

Contingent Interest shall be computed and paid as follows:

Within 15 days after the end of each quarter-annual period included in the period beginning on the date of the recording of the deed of the first Unit sold by Maker (the Commencement Date) and ending on the earlier to occur of (herein, the Expiration Date) the fourth anniversary of the Commencement Date or the date (which shall not in any event be earlier than the second anniversary of the Commencement Date) on which 90% in number of the Units have been sold, Maker shall submit to Holder a statement indicating (i) the sales price per net square foot for each Unit sold during the quarter-annual period just ended prior to such statement, and (ii) the sales price of all parking spaces sold during the period described in clause (i). Said statement shall be accompanied by payment equal to Holder's Share of the aggregate proceeds of the sales of all Units and parking spaces reported in Maker's statement, plus all interest earned thereon in the Proceeds Account. For purposes of the foregoing computations, (i) each unsold Unit and parking space at the Expiration Date shall be deemed to have been sold prior to the Expiration Date at the average price per net square foot of Units comparable to it actually sold and at the average price per parking space actually sold, respectively, from the Commencement Date to and including the Expiration Date, (ii) each Unit sold to an Affiliate shall be deemed to have been sold at the average price per net square foot of all Units comparable to it sold to non-Affiliates from the Commencement Date to and including the date of sale of each Unit sold to an Affiliate (or in the absence of the sale of a comparable Unit during said period at the fair market value of said Unit sold to an Affiliate), (iii) each parking space sold to an Affiliate shall be deemed to have been sold at the average price per parking space of all parking spaces sold to non-Affiliates during the quarter-annual period in which said sale of said parking space to an Affiliate occurred, and (iv) any parking space for which, as a consequence of having been sold as part of or in conjunction with the sale of a Unit, no purchase price is separately stated, shall be deemed to have been sold for the lesser of \$33,000 or its fair market value as of the date it is sold. The term Affiliate shall have the meaning set forth in Section 20.1 of the Ground Lease dated _____ from Holder to Maker. If the parties are unable to agree on the fair market value of a Unit or parking space, said fair market value shall be determined in accordance with the provisions of Section 12.2(c) of said Ground Lease.

In the event Maker fails to pay any amount of principal or interest on this Note for 15 days after such payment becomes due whether by acceleration or otherwise, Holder may, at its option, impose a delinquency or late charge equal to 5% of the amount of each and every such past due payment notwithstanding the date on which such payment is actually paid to Holder provided, however, that if any such delinquency or late charge is in excess of the

amount permitted to be charged to Maker under applicable federal or state law, Holder shall be entitled to collect a delinquency charge at the highest rate permitted by such law.

In the event Maker fails to pay any installment of principal, interest, or late charges, or any of them, on this Note for 5 business days after receipt of written notice from Holder that such payment is due, Maker may at its option declare the entire unpaid balance of this Note, together with interest accrued hereon, to be immediately due and payable.

After default, in addition to principal, interest and late charges, Maker shall be entitled to collect all costs of collection, including but not limited to reasonable attorneys' fees, incurred in connection with Maker's collection efforts, whether or not suit on this Note is begun, and all such costs and expenses shall be payable on demand.

No failure on the part of Holder to exercise any right or remedy hereunder, whether before or after the happening of a default, shall constitute a waiver thereof, and no waiver of any past default shall constitute waiver of any future default or of any other default.

All notices to Maker shall be given in accordance with the provisions regarding notice to Maker set forth in the mortgage referred to below or, in the absence of such mortgage, such other instrument providing substitute security for the obligations of Maker hereunder.

Borrower, and each endorser of this Note, if any, hereby waives presentment, protest, demand, diligence, notice of dishonor and of nonpayment.

It is the intention of the parties to conform strictly to the usury laws, whether state or federal, that are applicable to this Note. All agreements between Maker and Holder, whether now existing or hereafter arising and whether oral or written, are hereby expressly limited so that in no contingency or event whatsoever, whether by acceleration of maturity hereof or otherwise, shall the amount paid or agreed to be paid to Holder or collected by Holder, for the use, forbearance or detention of the money to be loaned hereunder or otherwise, or for the payment or performance of any covenant or obligation contained herein, or in any other document evidencing or pertaining to the indebtedness evidenced hereby, exceed the maximum amount permissible under applicable federal or state usury laws.

This Note is secured by a mortgage of even date herewith on real estate in Boston, Suffolk County, Massachusetts, to be recorded with Suffolk Registry of Deeds, and shall be governed by and construed under the laws of the Commonwealth of Massachusetts.

Anything contained herein to the contrary notwithstanding, no recourse shall be had for the payment of the principal of or interest (both at the Stipulated Rate and Contingent Interest) on this Note or for any claim based thereon, against any partner or joint venturer of the Maker, or the legal representatives, successors, or assigns of any partner or joint venturer thereof, or the officers, directors or shareholders of any corporate partner or joint venturer thereof, or the partners of any partner or joint venturer thereof which is itself a partnership (general or limited), for any deficiency or any other sum owing on this Note; provided, that the foregoing provisions of this paragraph shall not prevent recourse to the property securing this Note.

IN WITNESS WHEREOF, Borrower has executed this instrument under seal by its duly authorized general partners the date first above written.

Witness:

ROWES WHARF ASSOCIATES

By: THE EQUITABLE LIFE ASSURANCE
SOCIETY OF THE UNITED STATES

By: _____
Its

By: ROWES WHARF LIMITED PARTNERSHIP

By: _____
General Partner

Schedule A

The principal amount shall be: (i) the amount derived by dividing \$444,000 plus the CPI Amount (as hereinafter defined), by 0.125.

The "CPI Amount" shall be the following:

- (1) If the date of conveyance of the Reserved Unit Deed to Maker (the "Delivery Date") is on or after November 15, 1989, the product of
 - (a) \$222,000, multiplied by
 - (b) the percentage increase, if any, in the Consumer Price Index for all Urban Consumers as published by the Bureau of Labor Statistics of the U.S. Department of Labor for the Boston Metropolitan Area (base year 1967 = 100) (the "CPI") for the bi-monthly period ending next prior to the Delivery Date over such index as published for the bi-monthly period ending next prior to November 15, 1984.
- (2) If the Delivery Date is before November 15, 1989, the product of
 - (a) \$222,000, multiplied by
 - (b) the sum of
 - (i) the percentage increase in the CPI for the bi-monthly period ending next prior to the Delivery Date over such index for the bi-monthly period ending next prior to November 15, 1984 (the "Actual CPI Increase"), plus
 - (ii) the product of the Actual CPI Increase multiplied by the ratio of
 - (y) the number of days from the Delivery Date to November 15, 1989, to
 - (z) the number of days from November 15, 1984 to the Delivery Date.

If the CPI should cease to be published, the most comparable government index published in lieu thereof shall be used.

**HOTEL UNIT
PROMISSORY NOTE**

\$3,713,800.00

Boston, Massachusetts
[Insert date of execution]

For Value Received, **ROWES WHARF ASSOCIATES ("MAKER")**, a joint venture between The Equitable Life Assurance Society of the United States, a New York corporation, and **ROWES WHARF LIMITED PARTNER-SHIP** a Massachusetts limited partnership ("RWLP"), promises to pay to the order of **THE BOSTON REDEVELOPMENT AUTHORITY**, a public body politic and corporate organized under the laws of the Commonwealth of Massachusetts ("Holder"), the sum of Three Million Seven Hundred Thirteen Thousand Eight Hundred Dollars (\$3,713,800.00) on [Insert date which is seventy (70) years from date of execution], (the "Maturity Date").

The unpaid principal balance shall bear interest equal to the sum of (i) interest on the unpaid principal balance at the "Stipulated Rate" (as hereinafter defined), plus (ii) "Contingent Interest" (as hereinafter defined).

The "Stipulated Rate" shall be [Insert yield on 30-year Treasury Bonds at last auction prior to date of Note execution multiplied by 1.10], subject to adjustment as hereinafter provided. The foregoing interest rate shall be adjusted on the thirtieth (30th) and sixtieth (60th) anniversaries (each of said dates being referred to herein as an "Interest Adjustment Date") of the date of this note to equal the yield on United States Treasury Bonds having a maturity of thirty (30) years as determined at the United States Treasury Department (the "Treasury Department") auction of said bonds last preceding the applicable Interest Adjustment Date, multiplied by 1.10. If at the time of an Interest Adjustment Date the Treasury Department has not issued bonds having a thirty (30)-year maturity within the two-year period preceding the Interest Adjustment Date, the interest rate shall be adjusted to equal the yield on bonds of longest maturity issued by the Treasury Department within the two-year period preceding the Interest Adjustment Date (the "Substitute Treasury Bonds") as determined at the auction thereof last preceding the applicable Interest Adjustment Date, multiplied by 1.10, and succeeding Interest Adjustment Dates shall be advanced or postponed so as to coincide with the maturity

date of the Substitute Treasury Bonds. If on any Interest Adjustment Date as it may have been advanced or postponed as aforesaid, the Treasury Department has not issued any bonds within the two-year period preceding the Interest Adjustment Date, the interest rate then in effect shall be adjusted to equal the average yield on Industrial Bonds rated Triple A by Moody's Investors Service, Inc. (the "Corporate Bonds") as most recently published in Moody's Bond Record multiplied by 1.10. In the event said average yield is no longer published by Moody's Investor Service, Inc., there shall be substituted such report thereof as may be published by such other nationally recognized publisher of financial information as Maker shall reasonably designate. If the interest rate hereunder is adjusted based on the average yield on Corporate Bonds as aforesaid, subsequent Interest Adjustment Dates shall occur as originally scheduled hereunder. Interest at the Stipulated Rate shall be payable monthly on the first day of each month commencing [Insert first day of month next following date of Note execution] and on the first day of each month thereafter until the Maturity Date, at which time all unpaid accrued interest shall be due and payable.

The "Contingent Interest" for any period shall be one percent (1%) of the amount by which "Gross Revenues" (as hereinafter defined) shall exceed the Base Amount for such period. The Base Amount for a twelve month period shall be \$8,000,000. In the event that any period contains less than twelve full calendar months, the aforesaid Base Amount shall be decreased proportionately.

"Gross Revenues" for any period shall mean:

(a) All accrued income (whether in cash or on credit) for such period resulting from the operation of the hotel (herein, the "Hotel") located in the Hotel Unit of the Condominium at Rowes Wharf, Boston, Massachusetts created by Master Deed of even date and all of the facilities therein, including, without limitation, all income received from tenants, transient guests, sublessees, licensees, operators and concessionaries (but not including gross receipts of said sublessees, licensees, operators or concessionaires, provided, however, that this exclusion of the gross receipts of operators shall not include the gross receipts of any operator or manager of the Hotel) and other persons occupying space at the Hotel and/or rendering services to the Hotel guests (but exclusive of all consideration received at the Hotel for hotel accommodations, goods and services to be provided elsewhere, although arranged by, or on behalf of, the Hotel operator), all subsidy payments, parking revenues, governmental allowances and awards, any other form of incentive payments or awards from any source whatsoever which are attributable to the operation of the Hotel

and the proceeds of use and occupancy (but not casualty) insurance actually received by or for the benefit of RWLP or its successors and assigns under that certain Hotel Lease Agreement by and among Maker as lessor, RWLP as lessee, and The Beacon Companies Hospitality Group Limited Partnership (the "Manager") as manager, with respect to the operation of the Hotel (after deduction from said proceeds of all necessary expenses incurred in the adjustment or collection thereof). There shall be excluded from Gross Revenues:

- (a) any and all excise, privilege, sales, occupancy and use taxes collected directly from patrons or guests or as a part of the sale price of any goods, services or displays, such as room, admission, cabaret, or similar or equivalent taxes;
- (b) proceeds of any life insurance policies;
- (c) condemnation awards except awards for the use of the Hotel or any portion thereof for a period of time, definite or indefinite;
- (d) gains arising from the sale or other disposition of capital assets; and
- (e) any amounts paid to RWLP by Maker or Manager to fund operating deficits of the Hotel.

It is understood that uncollected accounts or bad debts, when written off, will be charged against Gross Revenues.

In order that Holder may receive the Contingent Interest required hereunder in equal monthly installments during each Fiscal Year, Maker agrees to submit to Holder not less than sixty (60) days prior to the beginning of each Fiscal year a budget (the "Contingent Interest Budget") which shall set forth a detailed projection of Contingent Interest for the next ensuing Fiscal Year. Except as provided below in the event that Holder shall dispute the reasonableness of the Contingent Interest Budget, Maker shall pay to Holder, as Contingent Interest, commencing on the first day of the first month of such next ensuing Fiscal Year and thereafter continue to pay to Holder on the first day of each month of such Fiscal Year, an amount equal to one-twelfth (1/12th) of the Contingent Interest projected in such budget.

Holder may at any time within sixty (60) days after the receipt of the Contingent Interest Budget make such investigations and inquiries as Holder determines to be appropriate in order to evaluate the reasonableness thereof (including without limitation, an audit and/or examination of the books and records of Maker with

respect to all financial matters relevant to the operation of the Hotel). Should Holder determine in the exercise of its reasonable judgment that the Contingent Interest Budget understates the amount of Contingent Interest reasonably to be anticipated for the next ensuing Fiscal Year, Holder may make a revised estimate of the Contingent Interest anticipated for such Fiscal Year and, based thereon, Maker shall increase its monthly payments of Contingent Interest for the remainder of such Fiscal Year so as more accurately to reflect Contingent Interest as estimated by Holder to be due for such next ensuing Fiscal Year.

Within ninety (90) days after the end of each Fiscal Year, Maker shall furnish to Holder a detailed, true, correct and complete statement (the "Year End Financial Statement") of all income and other financial matters reasonably necessary to determine, and setting forth a calculation of, the amount of Gross Revenues of the Hotel and of the Contingent Interest due for the immediately preceding Fiscal Year, prepared by an independent certified public accounting firm selected by Maker and approved by Holder, said approval not be unreasonably withheld. If the Year End Financial Statement shows a deficiency in the payment of Contingent Interest for the preceding Fiscal Year, Maker shall promptly pay such deficiency and if the Year End Financial Statement shows an overpayment of Contingent Interest, the amount of such overpayment shall be credited against payment of interest and Contingent Interest next falling due hereunder, except that any overpayment of Contingent Interest unapplied to interest or Contingent Interest at the Maturity Date shall be applied in payment of the principal balance hereof.

Holder reserves the right to conduct an independent audit of Maker's records regarding all fiscal matters relevant to the Hotel to ascertain the accuracy of any Year End Financial Statement submitted by Maker. This independent audit may be conducted at any time within two (2) years of the end of any Fiscal Year and may be conducted by an accounting firm of Holder's choice. Such independent audit shall be conducted by a nationally recognized accounting firm (or by an independent certified public accountant selected by Holder and approved by Maker, which approval shall not be unreasonably withheld) and if the amount of gross Revenues as shown on such independent audit shall exceed by more than three percent (3%) that shown in any such Year End Financial Statement submitted by Maker, Maker shall pay the total cost thereof; otherwise, the cost of such audit shall be borne by Holder.

For purposes of this Note, a fiscal Year shall mean a twelve month period commencing January 1 and ending December 31 next following, except that the first Fiscal Year shall commence on the date hereof and the last Fiscal Year shall end on the maturity date of this Note, provided that Maker reserves the right from

time to time by written notice to Holder to change the Fiscal Year to a different twelve month period, and upon any such change all items included in Gross Revenues and payments due hereunder shall be appropriately apportioned.

Maker may, at its option exercised by written notice to Holder given at any time during the period commencing January 1, 1999 through and including December 31, 1999, elect to capitalize (in the manner hereinafter provided) and add to the principal then outstanding hereunder the "Peak Annual Contingent Interest" (as hereinafter defined). In the event Maker exercises the foregoing election, effective as of the day (herein the "Effective Date") following the date the aforesaid notice of exercise is received by Holder, the outstanding principal balance of this Note shall be increased by the capitalized Peak Annual Contingent Interest (determined in the manner hereinafter provided) and no further Contingent Interest shall accrue or be payable hereunder other than accrued and unpaid Contingent Interest up to the Effective Date.

Capitalization of Peak Annual Contingent Interest shall be accomplished by dividing Peak Annual Contingent Interest by the base rate of interest (or its reasonable equivalent) charged by the First National Bank of Boston on the Effective Date, or 10%, whichever is less.

The "Peak Annual Contingent Interest" shall be the highest Contingent Interest paid by Maker in respect of a calendar year period included in the three calendar years next preceding the 1999 calendar year.

In the event Maker fails to pay any amount of principal, interest on this Note for 15 days after such payment becomes due whether by acceleration or otherwise, Holder may, at its option, impose a delinquency or "late" charge equal to 5% of the amount of each and every such past due payment notwithstanding the date on which such payment is actually paid to Holder; provided, however, that if any such delinquency or late charge is in excess of the amount permitted to be charged to Maker under applicable federal or state law, Holder shall be entitled to collect a delinquency charge at the highest rate permitted by such law.

In the event Maker fails to pay any installment of interest or late charges on this Note for 5 business days after receipt of written notice from Holder that such payment is due, Maker may at its option declare the entire unpaid balance of this Note, together with interest accrued hereon, to be immediately due and payable.

After default, in addition to principal, interest and late charges, Maker shall be entitled to collect all costs of collection, including but not limited to reasonable attorneys' fees, incurred in connection with Maker's collection efforts, whether or not suit on this Note is begun, and all such costs and expenses shall be payable on demand.

No failure on the part of Holder to exercise any right or remedy hereunder, whether before or after the happening of a default, shall constitute a waiver thereof, and no waiver of any past default shall constitute waiver of any future default or of any other default.

All notices to Maker shall be given in accordance with the provisions regarding notice to Maker set forth in the mortgage referred to below or, in the absence of such mortgage, such other instrument providing substitute security for the obligations of Maker hereunder.

Borrower, and each endorser of this Note, if any, hereby waives presentment, protest, demand, diligence, notice of dishonor and of nonpayment.

It is the intention of the parties to conform strictly to the usury laws, whether state or federal, that are applicable to this Note. All agreements between Maker and Holder, whether now existing or hereafter arising and whether oral or written, are hereby expressly limited so that in no contingency or event whatsoever, whether by acceleration of maturity hereof or otherwise, shall the amount paid or agreed to be paid to Holder or collected by Holder, for the use, forbearance or detention of the money to be loaned hereunder or otherwise, or for the payment or performance of any covenant or obligation contained herein, or in any other document evidencing or pertaining to the indebtedness evidenced hereby, exceed the maximum amount permissible under applicable federal or state usury laws.

This Note is secured by a mortgage of even date herewith on real estate in Boston, Suffolk County, Massachusetts, to be recorded with Suffolk Registry of Deeds, and shall be governed by and construed under the laws of the Commonwealth of Massachusetts.

Anything contained herein to the contrary notwithstanding, no recourse shall be had for the payment of the principal of or interest (both at the Stipulated Rate and Contingent Interest) on this Note or for any claim based thereon, against any partner or joint venturer of the Maker, or the legal representatives, successors, or assigns of any partner or joint venturer thereof, or the officers, directors or shareholders of any corporate partner or joint venturer thereof, or the partners of any partner or joint

venturer thereof which is itself a partnership (general or limited), for any deficiency or any other sum owing on this Note; provided, that the foregoing provisions of this paragraph shall not prevent recourse to the property securing this Note.

IN WITNESS WHEREOF, Borrower has executed this instrument under seal by its duly authorized general partners the date first above written.

Witness:

ROWES WHARF ASSOCIATES

By: THE EQUITABLE LIFE ASSURANCE
SOCIETY OF THE UNITED STATES

By:-----
Its

By: ROWES WHARF LIMITED PARTNERSHIP

By:-----
General Partner

OFFICE/RETAIL UNIT LEASE

Dated __ __, 1985

between

BOSTON REDEVELOPMENT AUTHORITY

Landlord

and

ROWES WHARF ASSOCIATES

Tenant

For Property Known as
Rowes and Fosters Wharves
Boston
Massachusetts

NOTE

This lease contains certain provisions which are included in the Ground Lease. Said Ground Lease provisions have been revised subsequent to the date of this lease draft. Accordingly, it is understood that this document shall be revised so as to bring the provisions referred to above into conformity with said revised provisions of the Ground Lease.

OFFICE/RETAIL UNIT LEASE
Dated , 1985

Between

THE BOSTON REDEVELOPMENT AUTHORITY

And

ROWES WHARF ASSOCIATES

THIS LEASE is entered into by and between **THE BOSTON REDEVELOPMENT AUTHORITY**, a public body politic and corporate organized under the laws of the Commonwealth of Massachusetts ("Landlord"), and **ROWES WHARF ASSOCIATES** ("Tenant") a joint venture between **THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES**, a New York Corporation, and **ROWES WHARF LIMITED PARTNERSHIP**, a Massachusetts limited partnership ("RWLP").

ARTICLE 1

PREMISES

1.1 Landlord, for and in consideration of the rents hereinafter reserved by Landlord and the covenants and agreements hereinafter contained on the part of Tenant to be paid, kept and performed, does hereby lease to Tenant, and Tenant does hereby take and hire upon and subject to the terms and conditions herein set forth, Landlord's interest (as described in Section 22.1 hereof) in the Leased Premises.

1.2 The term "Leased Premises" shall mean the Office/Retail Unit in that certain condominium known as The Condominium at Rowes

Wharf (the "Condominium") to be created by the Master Deed referred to and defined in the Ground Lease of even date from Landlord to Tenant, which Office/Retail Unit shall be substantially as described in Exhibit A attached hereto, together with (i) the undivided percentage interest appurtenant to said Unit in the common elements of the Condominium and in the organization of Unit Owners, and (ii) such other rights and easements appurtenant to the Unit as may be set forth in any document governing the Condominium, including the Master Deed and the By-Laws of the organization of Unit Owners (the "By-Laws"). Said Condominium is situated on Atlantic Avenue in Boston, Suffolk County, Massachusetts and is further described in Exhibit "A-1" attached hereto. Upon execution and recording of the Master Deed the Leased Premises shall be deemed amended so as to coincide with the description of the Office/Retail Unit established by the Master Deed, to the extent of any discrepancy between said Master Deed description and Exhibit A, and Landlord and Tenant, upon the request of either, shall enter into an amendment of this Lease in recordable form in confirmation thereof.

1.3 The term "Improvements" shall mean all improvements within the Office/Retail Unit at the Lease Commencement Date or thereafter and all pipes, conduits, apparatus, machinery, devices, fixtures, appurtenances, equipment and personal property necessary for the proper maintenance, protection, conservation and operation of the aforesaid improvements, and structures, including, without

limitation, awnings, shades, screens and blinds; asphalt, vinyl, composition and other floor, wall and ceiling coverings; partitions, doors and hardware; elevators, and hoists; heating, plumbing and ventilating apparatus; gas, electric and steam fixtures; chutes, ducts and tanks; oil burners, furnaces, heaters, incinerators and boilers; air cooling and air conditioning equipment; washroom, toilet and lavatory fixtures and equipment; engines, pumps, dynamos, motors, generators, electrical wiring and equipment; tools, building supplies, and lobby decorations, but excluding movable trade fixtures, machinery and equipment; and all alterations and additions to, and replacements of, any of the foregoing; but excluding from all of the foregoing all improvements, fixtures, appurtenances, equipment and personal property which are designated in the Master Deed as part of the Office/Retail Unit or as Common Elements.

1.4 Landlord hereby assigns to Tenant for the duration of the term of this Lease all of Landlord's voting rights pertaining to its ownership interest in the Office/Retail Unit in the Condominium arising under the Master Deed and By-Laws of said Condominium and all of the other rights and benefits of ownership of said Unit, and in confirmation of said assignment grants to Tenant an irrevocable power of attorney, coupled with an interest, and proxy, to vote, in the name and on behalf of Landlord, at any meeting of the Unit Owners of the Condominium or by such other means as said By-Laws may prescribe or permit, the percentage interest in the Common Elements appurtenant to the Office/Retail

Unit. Notwithstanding the foregoing, Landlord reserves from said assignment and power of attorney the right without the prior written consent of Landlord (i) in the event of any taking by eminent domain or agreement in lieu thereof, or fire or other casualty, to vote said percentage interest other than in favor of the restoration of the Condominium, and (ii) to vote said percentage interest to amend the Master Deed or By-Laws of the Condominium, it being understood that any such votes in violation of this sentence shall be deemed a nullity. Tenant hereby agrees to indemnify and hold Landlord harmless from and against all obligations and liabilities arising out of ownership of the Leased Premises, other than those resulting from Landlord's negligence or misconduct.

ARTICLE 2

TERM

2.1 The term of this Lease shall commence on the recording of the Master Deed at Suffolk Registry of Deeds (the "Lease Commencement Date") and end on the day preceding the eightieth (80th) anniversary of the Lease Commencement Date; provided that if for any reason the Lease Commencement Date has not occurred by the expiration of the term of the Ground Lease, this Lease shall terminate and be null and void and of no further force or effect as of the date of expiration of the term of the Ground Lease.

ARTICLE 3

RENT

3.1 Commencing on the Lease Commencement Date, Tenant covenants and agrees to pay to Landlord without demand, abatement, deduction or offset, as rent, in lawful money of the United States, annual rental as follows:

Tenant shall pay for each Lease Year or partial Lease Year during the term hereof Base Rent at the annual rate of \$1,282,400.00, which sum shall be paid in monthly installments of \$106,866.66 payable in advance on the first day of each month, except that the first such payment shall be paid on the Lease Commencement Date and shall be prorated if the Lease Commencement Date is other than the first day of the month, and the last such payment shall be prorated if the last month of the Term is less than a full month.

3.2 Tenant shall also pay as additional rent:

(a) annually for each Lease Year or partial Lease Year during the term hereof a sum ("Percentage Rent") equal to ten percent (10%) of the amount of Net Cash Flow for each such Lease Year;

(b) as and when the same are received by or made available to or for the benefit of Tenant, ten percent (10%) of all Net Refinancing Proceeds; and

(c) as and when the same are received by or made available to or for the benefit of Tenant, ten percent (10%) of all Net Sale Proceeds.

Notwithstanding anything else herein contained to the contrary, if (i) a Qualifying Leasehold Mortgagee, as hereinafter defined, shall in good faith and without intent to deprive Landlord of its benefits hereunder foreclose its Leasehold Mortgage and acquire the leasehold estate hereunder or in good faith accept a transfer of the Leased Premises from Tenant in lieu of foreclosure, or in good faith acquire such leasehold estate pursuant to the provisions of Section 23.2(h), and (ii) said Qualifying Leasehold Mortgagee or any other party who acquires the leasehold estate hereunder upon foreclosure of said Leasehold Mortgage shall in good faith determine at any time within a period of five years from the date of such foreclosure, transfer or acquisition (herein, the "Insufficiency Determination") that Cash Flow Before Debt Service, as hereinafter defined, shall be insufficient to pay Purchaser's Debt Service, as hereinafter defined, the obligation of Tenant to pay Percentage Rent shall thereafter cease and be of no further force and effect for the balance of said five-year period from the delivery to Landlord of said Insufficiency Determination. Irrespective of whether said Qualifying Leasehold Mortgagee or such other purchaser shall make an Insufficiency Determination, monthly installments of Percentage Rent shall be

suspended for the balance of the Lease Year following such foreclosure and until the Year End Financial Statement referred to in Section 3.5 is submitted to Landlord, at which time Percentage Rent for the period of suspension shall be paid and monthly Percentage Rent for the then current Lease Year shall be established by annualizing the Percentage Rent due for the aforesaid balance of the preceding Lease Year (taking into consideration appropriate seasonal adjustments), all subject however to Tenant's right to make the Insufficiency Determination referred to above.

3.3 For purposes of this Lease the following terms shall have the following meanings:

(a) The term "Net Cash Flow" shall mean the amount by which Gross Revenue during any given Lease Year exceeds Allowed Deductions during such Lease Year.

(b) The term "Gross Revenue" shall mean:

(i) All revenues and the fair market value of all services, goods or the like of every type and from every source whatsoever (including without limitation occupancy tenants) received by Tenant, or received for the benefit of Tenant, with respect to the use, occupancy or other utilization of space in, or other facilities of, the Leased Premises, the Maritime Facilities and the Garage under any use, occupancy or other agreement, written or oral and however denominated (other than security and other deposits returnable upon expiration of any occupancy lease, except that any

such security and other deposits which become the property of Tenant shall be treated as part of Gross Revenue at such time).

(ii) All interest earned on a reserve account taken as an Allowed Deduction under Section 3.3(c)(i), except to the extent such interest is retained in and as a part of such reserve account, subject to the limitations set out in said Section 3.3(c)(i).

Gross Revenue shall be computed on an accrual basis in accordance with generally accepted accounting principles consistently applied, adjusted to reflect amounts actually received.

(c) The term "Allowed Deductions" shall mean only the following amounts actually paid with respect to the Lease Year in question:

(i) All Impositions (as hereinafter defined) and all reasonable and customary charges incurred for the maintenance, protection, conservation and operation of (x) the Leased Premises and Improvements in the manner required by this Lease and consistent with the operation and management from time to time of like first-class properties in the City of Boston as and to the extent the same are considered ordinary in the business and necessary for its operation; (y) the Maritime Facilities in the manner required by the lease thereof from the Condominium Association to Tenant, and, (z)

the Garage in the manner required by the management agreements between Tenant and the Condominium Association respecting the same; including as to all of the foregoing, without limitation: payments made by Tenant for Common Charges, Special Common Charges and Special Common Assessments in respect of the Office/Retail Unit, insurance premiums, legal expenses, management fees and expenses, utilities, fuel, repairs and maintenance, accounting, statistical or book-keeping services or equipment, salaries, fringe and other employee benefits, advertising and promotion, commissions and other compensation for leasing, alterations and repairs to make space ready for occupancy tenants, other charges for operation and management of the Leased Premises, Improvements, Garage and Maritime Facilities, and the balance of the aforesaid portions of the Common Areas; and amounts paid to a reserve account, actually maintained by Tenant and held by the Depository, for replacements and capital improvements provided, that, with respect to any such reserve account: (1) the amount deposited therein in any Lease Year shall not exceed two percent (2%) of Gross Revenues for such Lease Year, and (2) withdrawals made therefrom shall only be for the purpose of paying for physical assets which replace, or appreciably lengthen the life of an existing asset or add to the asset base of the Leased Premises, Improvements or the Maritime Facilities or Garage; provided that, if Tenant

elects not to maintain said reserve account, Tenant shall be entitled to an Allowed Deduction for the cost of replacing a physical asset or for a capital improvement up to the balance of the amount which would be in any such reserve account had Tenant made the maximum payments permitted hereunder, after taking into account all other Allowed Deductions for capital expenses, replacements and improvements (herein "Accrued Reserve Account Balance") allowed hereby; and the amount of any such capital expense in excess of such Accrued Reserve Account Balance may be taken as an Allowed Deduction in equal annual installments over the shorter of the useful life (for federal income tax purposes) of such replacement or improvement or the then balance of the term of this Lease.

(ii) Payments made by Tenant to Landlord of Base Rent.

(iii) An amount (herein, "Stipulated Debt Service") which shall be computed by multiplying Total Project Costs (as defined in Article 32 below) by 12.5%.

(iv) If Tenant is required, in connection with the restoration of damage or destruction caused by casualty or as a consequence of a taking by eminent domain, to deposit any amount or amounts with the Depository under the provisions of Section 13.1, a deduction shall be allowed (except with respect to amounts so deposited because Tenant has failed to maintain casualty insurance on the Improvements in accordance

with the provisions of this Lease), such deduction to be calculated in order to amortize each amount so deposited over the shorter of (i) the useful life (for federal income tax purposes) of the restoration or repair, or (ii) the then balance of the term of this Lease.

(v) If Tenant commences restoration of damage caused by casualty or as a consequence of a taking by eminent domain prior to collection of the "Amounts" (as defined in Section 13.1 below) receivable with respect to such casualty or taking, a deduction shall be allowed for all interest incurred by Tenant, prior to the receipt of the Amounts, for the interim financing of such restoration.

(d) The term "Net Cash Flow Before Debt Service" means Net Cash Flow plus Stipulated Debt Service.

(e) The term "Purchaser's Debt Service" means the combined annual payments of principal and interest payable by the Leasehold Mortgagee or other purchaser of the Leased Premises pursuant to clause (c) of Section 3.2 on all mortgages of the Leased Premises given by said Leasehold Mortgagee or purchaser to finance the acquisition and operation of the Leased Premises; provided that, (i) if any such mortgage encumbers both the Leased Premises and any other unit in the Condominium, said Debt Service shall be apportioned between the Leased Premises and such other unit in proportion to the Financing Percentages set forth in this Section 3.3 below, and (ii) if said Leasehold Mortgagee or other purchaser

at foreclosure does not mortgage the Leased Premises to finance such purchase or operation, "Purchaser's Debt Service" shall be deemed to be the product of the purchase price paid for the Leased Premises by such purchaser multiplied by 110% of the average yield on United States Treasury Bonds having a thirty year maturity as determined at the auction last held prior to the date of said purchase.

(f) The term "Original Financing" means the product of the Financing Percentage (as hereinafter defined) for the Office/Retail Unit multiplied by the aggregate funds provided by RWLP and Equitable and other Institutions (as defined in Article 32 below) for purposes of financing the original construction and development of the Property, as said term is defined in the Ground Lease, and the operation thereof, either (i) entirely as debt secured by Leasehold Mortgages on the Leased Premises, or (ii) partly as debt so secured and partly as an equity investment in said Property. The Original Financing shall include all said funds so provided up to the date of discharge of the debt portion of the Equitable financing. The term "Financing" means the Original Financing, and all debt secured by Leasehold Mortgages on the Leased Premises incurred in connection with the Refinancing of the Original Financing, and all subsequent debt so secured incurred in connection with later Refinancings, including Supplemental Financings. The term "Refinancing" means (i) replacing all or a portion of the Original Financing, or, as to any subsequent Refinancing,

the then existing Financing, with new Financing, or (ii) adding Supplemental Financing to then existing Financing, subsequent to the Original Financing.

The term "Supplemental Financing" shall mean any debt secured in whole or in part by the Leased Premises which adds to the then existing Financing without replacing any portion thereof and the proceeds of which are not expended for items in the nature of those included in Total Project Costs.

The term "Net Refinancing Proceeds" means the amount by which the proceeds of Refinancing (reduced by the reasonable expenses incurred by Tenant in connection with the Refinancing) exceed the greater of Total Project Costs or the then outstanding principal balance of the existing Financing. The term "Net Sale Proceeds" means the amount by which the proceeds of sale of Tenant's interest under this Lease (reduced by the reasonable expenses incurred by Tenant in connection with the sale) exceed the greater of Total Project Costs or the then outstanding principal balance of the existing Financing.

For purposes of the computations to be made pursuant to this Section 3.3, if new debt is limited to and secured only by the Leased Premises, the entire original principal amount thereof shall be included in the term "Financing" and for purposes of determining the amount of the "Refinancing", and where such new debt is secured by both the Leased Premises and either or both of the other Units in the Condominium, a portion of the total

principal amount of said new debt shall be included in the term "Financing" and for purposes of determining the amount of the "Refinancing" in the ratio that the Financing Percentage of the Office/Retail Unit bears to the aggregate Financing Percentages of all Units encumbered as security for said new debt. The Financing Percentages of the units are: ___% for the Office/Retail Unit, _____% for the Hotel Unit, and _____% for the Reserved Unit. The foregoing Financing Percentages are based upon Tenant's reasonable estimate of the Total Project Costs which will be attributable to each Unit in the Condominium. If upon substantial completion of the Units and the other improvements included in the Condominium Tenant reasonably determines that the actual share of Total Project Cost allocable to each Unit materially differs from the Financing Percentages referred to above, said Financing Percentages shall be adjusted consistent with such revised allocations, as Tenant shall specify in a certificate to Landlord executed by a general partner of RWLP.

3.4 In order that Landlord may receive the Percentage Rent required hereunder in equal monthly installments during each Lease Year, Tenant agrees to submit to Landlord not less than sixty (60) days prior to the beginning of each Lease Year a budget (the "Percentage Rent Budget") which shall set forth a detailed projection (using the foregoing definitions and setting their computations out in separate calculations) of Percentage Rent for the next ensuing Lease Year. Except as provided below, in the event

that Landlord shall dispute the reasonableness of the Percentage Rent Budget, Tenant shall pay to Landlord, as Percentage Rent, commencing on the first day of the first month of such next ensuing Lease year and thereafter continue to pay to Landlord on the first day of each month of such Lease Year, an amount equal to one-twelfth (1/12th) of the Percentage Rent projected in such budget, or one-twelfth (1/12th) of the actual Percentage Rent due Landlord for the preceding Lease Year, whichever is greater, but only if the greater figure does not exceed the lesser figure by more than twenty percent (20%); otherwise, payments shall be based on the lesser figure plus twenty percent (20%) thereof.

Landlord may at any time within sixty (60) days after the receipt of the Percentage Rent Budget make such investigations and inquiries as Landlord determines to be appropriate in order to evaluate the reasonableness thereof (including without limitation, an audit and/or examination of the books and records of Tenant with respect to all financial matters relevant to the operation of the Leased Premises, Improvements, Maritime Facilities and Garage). Should Landlord determine in the exercise of its reasonable judgment that the Percentage Rent Budget understates the amount of Percentage Rent reasonably to be anticipated for the next ensuing Lease Year, Landlord may make a revised estimate of the Percentage Rent anticipated for such Lease Year and, based thereon, Tenant shall increase its monthly payments of Percentage Rent for the remainder of such Lease Year so as more accurately to

reflect Percentage Rent as estimated by Landlord to be due for such next ensuing Lease Year.

3.5 Within ninety (90) days after the end of each Lease Year, Tenant shall furnish to Landlord a detailed, true, correct and complete statement (the "Year End Financial Statement") of all income, expenses, and other financial matters reasonably necessary to determine, and setting forth a calculation of, the amount of Net Cash Flow of the Leased Premises and of the Percentage Rent due Landlord for the immediately preceding Lease Year, prepared in conformity with the requirements of this Lease by Laventhal & Horwath or other independent certified public accounting firm selected by Tenant and approved by Landlord. Without limitation, the Year End Financial Statement shall provide (i) a complete statement of revenues and expenses on a cash basis, (ii) a statement showing changes in the balance of all reserve accounts, if any, and financings secured in whole or in part by the Leased Premises, and (iii) a reconciliation with financial statements for which an opinion has been rendered, audited under generally accepted auditing standards. If the Year End Financial Statement shows a deficiency in the payment of Percentage Rent for the preceding Lease Year, Tenant shall promptly pay such deficiency and if the Year End Financial Statement shows an overpayment of Percentage Rent, the amount of such overpayment shall be credited against payment of Base Rent, Percentage Rent and additional rent next falling due hereunder, but reserving in the Landlord the

right, in all events, first to offset against such overpayment any sums owing but unpaid by Tenant to Landlord under this Lease.

3.6 At the time Tenant delivers to Landlord the Year End Financial Statement make available to Landlord for inspection during normal business hours at the office of RWLP in Boston, Massachusetts, copies of all occupancy leases in respect of the Leased Premises.

3.7 Landlord reserves the right to conduct an independent audit of Tenant's records regarding all fiscal matters relevant to the Leased Premises, Improvements, Maritime Facilities and Garage to ascertain the accuracy of any Year End Financial Statement submitted by Tenant. This independent audit may be conducted at any time within two (2) years of the end of any Lease Year and may be conducted by an accounting firm of Landlord's choice. Such independent audit shall be conducted by a nationally recognized accounting firm (or by an independent certified public accountant selected by Landlord and approved by Tenant, which approval shall not be unreasonably withheld) and if the amount of Net Cash Flow as shown on such independent audit shall exceed by more than five percent (5%) that shown in any such Year End Financial Statement submitted by Tenant, Tenant shall pay the total cost thereof; otherwise, the cost of such audit shall be borne by Landlord.

3.8 For purposes of this Lease, a Lease Year shall mean a calendar year commencing January 1 and ending on December 31 next following, except that the first Lease Year shall commence on the

Lease Commencement Date and the last Lease Year shall end on the date the term of this Lease terminates or expires.

3.9 It is the intention of the parties hereto that the rent provided for in this Article shall be absolutely net to Landlord throughout the term of this Lease. Except as otherwise expressly provided in this Lease, in order that such rent shall be absolutely net to Landlord, Tenant shall pay and save Landlord harmless from and against all Impositions, insurance premiums, carrying charges, costs, expenses and obligations of every kind and nature whatsoever relating to the ownership, leasing or operation of the Leased Premises and Improvements which may arise, accrue or become due during the term of this Lease.

ARTICLE 4

PAYMENT OF TAXES AND OTHER CHARGES

4.1 Commencing on the Lease Commencement Date and continuing for the entire term of this Lease, as part of the consideration of this Lease and as additional rent hereunder, Tenant agrees to pay and discharge or cause to be paid and discharged promptly as the same become due and payable, all taxes, assessments, charges, license fees, municipal liens, levies, excise taxes or imposts, whether general or special, ordinary or extraordinary, imposed by any governmental authority as a result of or with respect to the ownership or use of the Leased Premises or the Improvements which may be levied, assessed, charged or imposed, or may be or become a lien or charge on the Leased Premises or Improvements, or any part

thereof or upon the leasehold estate hereby created, or upon Landlord solely by reason of its ownership of the Leased Premises, and all Special Common Charges and General Common Charges assessed against the Leased Premises by Rowes Wharf Condominium Association pursuant to the Master Deed and the By-Laws of the Condominium (hereinbefore and hereinafter termed individually an "Imposition" and collectively, the "Impositions"). If at any time during the term of this Lease the methods of taxation or assessment or rate determination applicable to real estate prevailing at the Lease Commencement Date shall be altered so that in lieu of any Imposition described in this paragraph there shall be levied, assessed or imposed an alternate tax, however designated, such alternate tax shall be deemed an Imposition for the purposes of this Lease (including this Article) and Tenant shall pay and discharge such Imposition as provided by this Article. Nothing in this Lease contained shall be construed as imposing upon Tenant any obligation to pay any condemnation award or income, estate, inheritance, succession, capital levy, franchise or transfer tax imposed on Landlord and growing out of or levied in connection with Landlord's right, title or interest in the Leased Premises.

4.2 Any Impositions required to be paid by Tenant which shall relate to the Lease Year during which the term of this Lease shall commence or terminate shall be prorated between Landlord and Tenant as of the date of such commencement or termination. Tenant

shall pay all assessments and charges of every type whether general, special, ordinary or extraordinary, which are assessed or levied against or with respect to the Leased Premises and Improvements during the term of this Lease. If the law expressly permits the payment of such assessments or levies in installments, Tenant may utilize the permitted installment method, but shall pay each installment thereon before delinquency.

4.3 Tenant shall regularly, and in any event on Landlord's request, deliver to Landlord copies or duplicate receipts (or, if the same are not available, other materials acceptable to Landlord) showing timely payment of all Impositions paid by Tenant as required by this Lease.

4.4 Except as hereinafter provided, Tenant shall make all payments of all Impositions directly to the charging authority before delinquency and before any fine, interest or penalty shall become due or be imposed by operation of law for their nonpayment.

4.5 In the event that the Leased Premises and Improvements are not separately taxed or assessed, then, in that event, the Impositions as levied shall be apportioned between the Leased Premises and Improvements and such other property with which it is assessed in such manner that Tenant shall pay only an equitable portion of any such Imposition.

4.6 Subject to the provisions hereof, Tenant shall have the right to contest or review by appropriate legal or administrative proceedings, any Imposition or other charge or levy which Tenant

is required to pay pursuant to the provisions of this Article, and Tenant's obligation to pay the Impositions shall not be interpreted or construed to limit in any way Tenant's right to contest the payment of any Imposition.

Whenever Tenant desires to contest the amount or validity of any Imposition after it has become payable, as in this Article provided, and prior to the payment thereof, it shall first give written notice to Landlord of its intention to do so, and, if Landlord so requires, Tenant shall, from time to time during the pendency of such proceedings, deposit with the Depository (as hereinafter defined), as security for the payment of such Imposition, money or other security reasonably satisfactory to Landlord an amount sufficient, in the reasonable judgment of Landlord, to pay said Imposition, together with all interest and penalties in connection therewith, and all charges that may be assessed against or become a charge on the Leased Premises or Improvements or any part of either, in said proceedings. If Tenant shall not have theretofor paid, removed and discharged the Imposition and the interest and penalties in connection therewith, and the charges accruing in such proceedings, then, upon the termination of such proceedings, the money or other security so deposited (together with any interest on any security deposited hereunder) shall at the direction of Landlord or Tenant be applied to the payment, removal and discharge of said Imposition, if any, then payable and the interest and penalties in connection therewith, and the

charges accruing in such proceedings, and the balance, if any, shall be paid or returned to Tenant, but reserving in Landlord the right, in all events, to direct that the money or other security so deposited (together with any interest on any security deposited hereunder) be paid to it in order to offset against such balance any sums owing but unpaid by Tenant to Landlord under this Lease.

In the event that the money or other security so deposited shall be insufficient for this purpose, Tenant shall, forthwith, pay over to the Depository an amount of money sufficient (in Landlord's reasonable opinion), together with the money or other security so deposited pursuant to this Section 4.6, to pay the same.

Nothing in this Article, except as hereinabove provided, shall be construed as relieving, modifying or extending Tenant's covenant to pay any such Imposition and all other charges incident thereto at the time and in the manner in this Article provided.

4.7 Landlord shall join in any such proceeding where such joinder shall be necessary in order properly to prosecute such proceeding and Landlord shall have first been fully indemnified against all liability in connection therewith. Landlord shall not be subject to any liability for the payment of any costs or expenses in connection with any such proceeding brought by Tenant, and Tenant covenants to indemnify and save harmless Landlord from any such costs or expenses, including reasonable legal fees.

4.8 The certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of any such Imposition, of the non-payment of any such Imposition, shall be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice or bill.

4.9 Tenant shall also pay or cause to be paid all permit, inspection and license fees, transfer taxes and all other public charges, however described, made or imposed by the City of Boston, the federal government or other public authority by reason of or in respect of Tenant's interest in this Lease transaction or any document to which Landlord and Tenant (or Tenant alone) is party, creating or transferring an interest or estate in the Leased Premises or Improvements or any part of either; or by reason or in respect of the business of Tenant or the occupancy, use or possession of the Leased Premises, Improvements or any part of either, including any permit and inspection fees, or other public charges made or imposed upon Landlord as owner of the Leased Premises by reason of Tenant being engaged in the business of renting or leasing the Leased Premises, provided, however, that Tenant's failure to pay any income, excise, franchise or other tax imposed upon Tenant by any federal, state or other public authority shall not constitute a default or an Event of Default hereunder.

4.10 Consistent with the provisions of Mass. General Laws, ch. 59, §2B, it is the express intent of the parties that the

Leased Premises be fully taxable to Tenant as if Tenant were the fee owner thereof, notwithstanding any law or regulation to the contrary, and Tenant hereby agrees to make no claim or take any action the purpose of which would be to claim that the Leased Premises are exempt, directly or indirectly, from taxation. If the Leased Premises shall for any reason be treated as so exempt, Tenant shall pay, in semi-annual payments on January 1 and July 1 of each Lease Year, a sum which would equal the amount of taxes that would be reasonably levied against the Leased Premises but for its tax exempt status, as if Tenant were the fee owner thereof, and all such payments shall be Impositions for all purposes of this Lease including this Article 4. Such sum shall be payable as additional rent and shall be determined by Landlord using, as the basis therefor, the amount of taxes assessed against reasonably comparable properties in the City of Boston.

ARTICLE 5

POSSESSION, USE, COMPLIANCE WITH LAWS, MAINTENANCE AND REPAIRS

5.1 Possession of the Leased Premises and Improvements shall be delivered by Landlord to Tenant upon the Lease Commencement Date free and clear of all tenants and occupants, and also free of all liens and encumbrances, all except for those matters disclosed in the Permitted Exceptions set forth in Exhibit "B". The Leased Premises and Improvements are to be delivered in their then present condition, "as is", it being agreed that Landlord has made no representations or warranties of any kind with respect to such

condition and that Landlord shall have no obligation to do any work on or with respect to the Leased Premises and Improvements , or the condition thereof.

5.2 The Leased Premises and Improvements shall continuously and without interruption, subject to vacancies arising in the ordinary course of the operation thereof, be used and devoted solely to a mixture of office, retail and commercial space, all in accordance with legal requirements from time to time applicable thereto and for no other purpose or purposes.

5.3 Tenant agrees throughout the term, at Tenant's sole cost and expense, properly to maintain, or cause to be maintained, the Leased Premises and Improvements and each and every part thereof in good order and condition in all respects, subject to reasonable wear and tear (but not obsolescence), free of accumulation of dirt, rubbish, snow and ice, and to make all necessary repairs, interior and exterior, structural and non-structural, ordinary as well as extraordinary, foreseen as well as unforeseen, in order to maintain the Leased Premises and Improvements as required hereby. When used in this Article, the term "repairs" shall include replacements or renewals when necessary, and all such repairs made by Tenant shall be at least equal in quality and class to the original work.

5.4 Tenant agrees throughout the term of this Lease, at Tenant's sole cost and expense, promptly to comply with, and cause

the Leased Premises and Improvements to be maintained in conformity with, and not in violation of, all laws and ordinances (including, without limitation, the provisions of the Plan, as hereinafter defined) and the orders, rules, regulations and requirements of the federal, state and city governments and appropriate departments, commissions, boards, bureaus, agencies and offices thereof, and the orders, rules, regulations and requirements of the water, sewer, electrical or other inspection departments of the City of Boston and the Board of Fire Underwriters (or any other body now or hereinafter constituted exercising similar functions), whether such laws, ordinances, orders, rules, regulations and requirements are foreseen or unforeseen, ordinary or extraordinary, and whether or not the same require structural repairs or alterations. Tenant will, likewise, observe and comply with the requirements of all policies of public liability, fire and all other policies of insurance at any time in force with reference to the Leased Premises and Improvements. The provisions and conditions of Sections 13.2 and 13.4 of Article 13 hereof applicable to changes or alterations shall, mutatis mutandis, apply to work required to be done under this Section and under Section 5.3 above.

Tenant shall have the right to seek and obtain variances, special permits, exceptions and waivers with respect to all zoning, building code and other laws, ordinances, rules and regulations applicable to the Leased Premises and Improvements.

Landlord shall cooperate with and assist Tenant in every reasonable way in Tenant's efforts to obtain said variances, special permits, exceptions and waivers and all other governmental consents, approvals and permits, but this obligation shall not require the expenditure of any monies by Landlord (including, without limitation, expenditures for permits or approvals of any type), nor derogate from Landlord's rights of review and approval of changes and alterations in the Improvements, as and to the extent set forth in Article 8. Accordingly, Tenant shall not be in violation of the foregoing requirements when, in good faith, it exercises its rights set forth above to seek variances, special permits, exceptions and waivers with respect to zoning, building code and other laws, ordinances, rules and regulations applicable to the Leased Premises or Improvements or contests, by appropriate legal proceedings, the validity or applicability of any law, ordinance, order, rule, regulation or requirement of any governmental agency and, unless criminal liability against Landlord may result therefrom, Tenant may delay compliance therewith until the final determination of such proceeding, provided, in the case of any contest and delay in compliance:

(a) Tenant shall notify Landlord forthwith, upon notice or knowledge of any violation or alleged violation of any such law, ordinance, order, rule, regulation or requirement, and of its intention to contest the same; and, thereafter,

shall, from time to time, and on the request of Landlord, advise Landlord of the status of any such proceedings;

(b) Tenant shall indemnify, save harmless and defend Landlord (with counsel of Tenant's selection, but subject to approval by Landlord which shall not be unreasonably withheld), from any loss, cost, liability or expense which may be incurred by Landlord by reason of such non-compliance or delay;

(c) Tenant shall prosecute such contest of validity or applicability to conclusion with all due diligence; and

(d) Tenant shall pay over to the Depository, on the request of Landlord, security (in an amount reasonably estimated by Landlord as necessary to effect compliance) for the faithful performance and observance of its obligation to comply with any such law, ordinance, order, rule, regulation or requirement, and for the payment of any penalties which may accrue by reason of non-performance or delay in compliance therewith, if it should be finally determined that the same is valid and applicable.

5.5 Tenant agrees to indemnify, defend (with counsel of Tenant's selection, but subject to approval by Landlord which shall not unreasonably be withheld), and save harmless Landlord against and from any and all claims by or on behalf of any person, firm or corporation, arising during the term of this Lease or any period

in which Tenant shall occupy any part or all of the Leased Premises from the conduct or management of any work or thing whatsoever done in or about the Leased Premises, and will further indemnify, defend (with counsel of Tenant's selection, but subject to approval by Landlord which shall not unreasonably be withheld), and save harmless Landlord against and from any and all claims arising during (even though asserted after) the term of this Lease from any condition of the Leased Premises or Improvements, or arising from any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of Tenant to be performed under the terms of the Lease, or arising from any act or neglect of Tenant or any of its agents, contractors, servants, employees or licensees, or anyone claiming by, through or under Tenant, or arising from any accident, injury or damage whatsoever caused to any person, firm or corporation occurring during the term of this Lease, in or about the Leased Premises. Notwithstanding the foregoing, nothing herein shall obligate Tenant to indemnify, defend or save harmless Landlord from any claims arising out of the negligence or default of Landlord, its agents, contractors, servants, or employees.

5.6 Tenant agrees to pay and be liable for the payment of all costs and charges, including the reasonable fees of counsel engaged by Landlord, incurred in exercising rights of Landlord under this Lease on account of any default or breach of condition by Tenant, or occurrence of condition which, under this Lease,

confers upon Landlord the right to exercise remedies available to Landlord in the event of default of Tenant, including, without limitation, such costs and expenses incurred in enforcing Landlord's right to possession of the Leased Premises after the expiration or earlier termination of the term of this Lease.

ARTICLE 6

CESSATION OF USE; NO ABATEMENT OF RENT

6.1 Except as otherwise specifically provided in this Lease, this Lease shall not be terminated, the respective obligations of the parties shall not be affected and no abatement, refund, offset, diminution or reduction of Base Rent or amounts due as additional rent shall be claimed by or allowed to Tenant, or any person claiming by, through or under Tenant, under any circumstances whatever, whether for inconvenience, discomfort, interruption, cessation or loss of business, or otherwise, or whether arising from the making of alterations, changes, additions, improvements or repairs to the Common Elements, the Leased Premises, or the Improvements, or whether by virtue or because of any present or future governmental laws, ordinances, regulations, direction or action or for any other cause or reason whatsoever and whether or not stated in or implied by the foregoing.

ARTICLE 7

SIGNS; COOPERATION AGREEMENT

7.1 No sign shall be erected or placed on any portion of the Leased Premises which is not enclosed within a building, or which is visible to the public from outside a building, unless the character, location, design, size, shape, form and lighting of such sign shall have been approved by Landlord in writing. All allowed signs shall conform to applicable laws and regulations, including the Boston Sign Code.

7.2 Landlord shall comply with the terms and provisions of the Cooperation Agreement relating to the Plan between it and the City of Boston, dated June 24, 1964 (which is hereby incorporated herein by reference) and shall enforce all of its rights thereunder, to the extent such enforcement shall be necessary in Tenant's reasonable judgment to enable Tenant to meet its obligations hereunder.

ARTICLE 8

CHANGES AND ALTERATIONS

8.1 Tenant shall not without the prior written approval of Landlord reconstruct, demolish, subtract from, make any additions to or extensions of, or change the materials, design, dimensions, or color of, the Improvements, nor permit the same by any person (excluding, however, those activities of the Condominium Association over which Tenant does not have control), if such reconstruction, demolition, subtraction, addition, extension or change

would affect in any way the external appearance of public lobbies, arcades, open spaces or landscaping, or the external appearance of the buildings and other improvements included in the Leased Premises or Condominium except that the restoration of the Improvements after a casualty or eminent domain taking to the condition required to exist prior to such event and the completion of the Interior Completion Work (except for any portion or portions thereof which affect the external appearance of public lobbies, arcades, open spaces or landscaping, or the external appearance of any building or other improvements included in the Leased Premises or Condominium) shall not require such approval.

8.2 In requesting such approval, Tenant shall submit to Landlord for its approval such plans, specifications, and other materials for the proposed work as are required by the Design Review Procedure attached as Exhibit D to the Ground Lease, all within such reasonable time limits as Landlord shall require therefor.

8.3 If Landlord shall consent to any alteration, addition, change or modification requiring such consent under Section 8.1 hereof, the same shall be accomplished by Tenant in compliance with these requirements:

(a) No work shall be undertaken until Tenant shall have produced and paid for, or caused to be paid for, so far as the same may be required from time to time, all governmental permits

and authorizations of the various governmental agencies having jurisdiction.

Landlord agrees to join in the application for such permits or authorizations, whenever such action is necessary, but at Tenant's sole cost and expense.

(b) No work shall be undertaken until Tenant shall have presented evidence acceptable to Landlord of Tenant's ability to pay for the cost thereof.

(c) Any work, the cost of which is reasonably estimated at \$250,000 (or the amount being equivalent in value at the time in question to \$250,000 in 1985, herein called the "value equivalent") or more, shall not be undertaken or permitted, except after compliance with the requirements of Section 13.1, below.

8.4 If Tenant shall fail to comply with the foregoing requirements of this Article 8, Landlord may, without limiting other remedies available to it, direct in writing that Tenant modify, reconstruct or remove any work done without the prior written approval of Landlord. Tenant shall promptly comply with such a directive, and shall not proceed further with any work until such directive is satisfied.

ARTICLE 9

MECHANICS' AND OTHER LIENS

9.1 Tenant agrees that with the exception of liens arising under M.G.L. Chapter 254 §1 it shall not suffer or permit any mechanics', laborers', materialmen's or other liens to attach against or be filed against the Improvements or the Leased Premises or any part thereof, by reason of work, labor, services or materials supplied or claimed to have been supplied to or on behalf of Tenant or to anyone claiming by, through or under Tenant (Landlord and Tenant hereby expressly agreeing that Landlord shall have no liability whatsoever on account of any such liens, such liability being hereby expressly denied and prohibited). If any mechanics', laborers', materialmen's or other liens shall at any time be filed against the Improvements or Leased Premises, or any part of either, Tenant shall cause the same to be discharged of record within forty-five (45) days after the date of filing the same unless, within such forty-five (45) day period, Tenant shall furnish Landlord with satisfactory evidence that it has instituted appropriate legal proceedings to contest any such lien which will prevent the enforcement thereof prior to the final determination of such proceedings and has deposited with the Depository, or, with the Court in which the lien is being contested, money in an amount sufficient in Landlord's reasonable opinion from time to time to assure payment of the lien, together with interest, penalties, court costs and attorneys' fees arising in such

proceedings, or a surety bond reasonably satisfactory to Landlord, for an amount sufficient to guarantee the payment of such lien, together with interest, penalties, court costs and attorneys' fees.

9.2 In connection with any proceeding still constituting a lien on the Improvements or the Leased Premises, Tenant agrees diligently to prosecute such proceedings to a final determination or conclusion. If Tenant shall fail to discharge such mechanics', laborers', materialmen's or other liens within such period or, in the event it desires to contest such lien by appropriate legal proceedings, fails to comply with any of the foregoing requirements in connection therewith and diligently to prosecute such proceedings to a final determination or conclusion, then, in addition to any other right or remedy by Landlord, Landlord may, but shall not be obligated to, discharge the same either by requiring the Depository to pay (to the extent of the monies hereby held by it) the amount claimed to be due or by procuring the discharge of such lien by deposit in Court or by giving security or in such manner as is, or may be, prescribed by law. Any amount paid by Landlord for any of the aforesaid purposes, and all reasonable legal and other expenses of Landlord, incident to obtaining the discharge of such liens, with all necessary disbursements in connection therewith, with interest thereon at the rate hereinafter set forth from date of payment, shall be paid

by Tenant to Landlord on demand, and, if unpaid, may be treated as additional rent due hereunder.

Nothing in this Article contained shall imply any consent or agreement on the part of Landlord to subject Landlord's estate to liability under any mechanics', materialmen's or other lien law.

ARTICLE 10

INSURANCE

10.1 Tenant shall, at Tenant's sole cost and expense, keep the Improvements insured in the name of Tenant and Landlord and, if required by the Leasehold Mortgagee (and if the Leasehold Mortgagee agrees that the proceeds thereof shall be applied in accordance with the provisions of this Lease), the Leasehold Mortgagee, as their respective interests may appear: [Insert herein description of Condominium unit owner's policy to be carried by Tenant]

10.2 Tenant shall, at its sole expense, procure and maintain during the term hereof rent or rental value insurance naming Tenant, Landlord and each Qualifying Leasehold Mortgagee as insureds, as their interests may appear, in an amount equal to not less than one hundred percent (100%) of the annual Base Rent due Landlord hereunder.

10.3 Tenant shall also maintain, at Tenant's sole cost and expense, but for the mutual benefit of Landlord and Tenant, and in the name of Landlord and Tenant, and, if required by the Leasehold Mortgage, the Leasehold Mortgagee: comprehensive general public

liability insurance against claims for personal injury, death or property damage occurring upon, in or about the Leased Premises or any elevators therein, and on, in or about the adjoining streets and passageways, including claims arising from the use of all equipment, hoists and motor vehicles on the Leased Premises or in connection with the hauling of materials or debris therefrom, such insurance to have primary plus excess coverage limits of not less than (i) \$1,000,000 for injury to or death of one person, (ii) \$3,000,000 for injury to or death of more than one person, and (iii) \$100,000 for property damage. Such insurance shall provide coverage not only on an accident basis but also on an occurrence basis; and such limits shall be subject to increase as Landlord may from time to time reasonably require.

10.4 Every insured loss shall be adjusted and settled promptly by the parties (including the Leasehold Mortgagee if the Leasehold Mortgagee is named as an insured on any policy as permitted by this Lease) and the insurer, provided that as to any claim of \$250,000 or less Landlord's approval shall not be required. The discussions and negotiations with the insurer respecting adjustment and settlement of any claim in excess of \$250,000 shall be primarily conducted by Tenant but any proposed settlement must be finally approved by Landlord, and Leasehold Mortgagee if the Leasehold Mortgagee is named as an insured. All insurance proceeds and all amounts payable as a result of such settlements (collectively, "Proceeds") (less, in either case,

costs, fees and expenses incurred in the collection thereof, which shall be paid out of such proceeds) shall be paid to the Depository and applied by it as hereinafter set forth.

10.5 Proceeds from rental insurance maintained pursuant to Section 10.2, less any cost of recovery, shall be applied to Tenant's obligation for the payment of the Base Rent and additional rent and to satisfy any other unpaid obligation of Tenant to Landlord hereunder and Tenant shall be relieved from its obligations to make such payments to the extent that such Proceeds are so applied. The balance of Proceeds, from rental insurance, if any, shall be paid first to the Leasehold Mortgagees as their interest shall appear, in the order of priority of their respective Leasehold Mortgages and then to Tenant provided no Event of Default then exists hereunder.

10.6 Proceeds attributable to any casualty, shall be applied by the Depository to the repair and restoration of Improvements in accordance with the provisions of Article 11 and Article 13 hereof, or if the Proceeds shall be less than \$250,000, or the value equivalent at the time in question, and an Event of Default shall not then exist hereunder, such Proceeds shall be paid to Tenant, which agrees to use the same to accomplish repair or restoration to the Improvements as required by this Lease and to retain the balance, if any, after such repair or restoration as Tenant's absolute and unconditional property subject to the rights of any Leasehold Mortgagee, provided, however, that if this Lease should

terminate because of Tenant's default prior to the time that Tenant has made or completed such repair or restoration, such Proceeds shall be paid to Landlord as its absolute and unconditional property.

10.7 Proceeds from insurance described in Section 10.3 shall be applied against payment of the claim covered by such insurance.

10.8 Other Proceeds shall be applied by the Depository as Landlord and Tenant direct.

10.9 All policies of insurance hereinbefore referred to shall be written in companies authorized to do business in the Commonwealth of Massachusetts satisfactory to Landlord, and shall be written in such form as shall be acceptable to Landlord. All policies of insurance shall provide that any act or negligence of Tenant shall not prejudice the rights of Landlord as a party insured under said policies, and notwithstanding the fact that Landlord has agreed that the proceeds of such insurance shall be used in the restoration or rebuilding of the Improvements. All policies of insurance shall contain an agreement by the insurers that such policies shall not be cancelled or materially changed other than to increase the limits thereof without at least thirty (30) days' prior written notice to Landlord, the Leasehold Mortgagee and such other parties as may be named as insureds thereunder.

Tenant shall deliver to Landlord, on or before the Lease Commencement Date, all such policies of insurance (or certificates

or certified copies thereof if the original of any such policy is required to be delivered to a Leasehold Mortgagee), in the amounts and covering the risks hereinabove provided, marked "Premium Paid" for all premiums then due, by the company or agency issuing the same, and Tenant shall deliver to Landlord, not less than thirty (30) days prior to the expiration of any then current policy, a new policy (or certificates or certified copies thereof if the original of such policy is required to be delivered to a Leasehold Mortgagee) in replacement thereof, marked "Premium Paid" for all premiums then due, by the company or agency issuing the same. However, if the insurance is carried under a blanket policy, as permitted by Section 10.11 hereof, Tenant may deliver certificates thereof, specifying the amount of insurance allocated to the Improvements in lieu of the original policy, as long as the possession of such certificates confers upon the holder thereof the same rights as the holder would have if in possession of the original of such insurance policies.

10.10 During the course of any construction requiring Landlord's approval under Section 8.1 hereof, and in any other situation when such coverage may be appropriate, Tenant shall carry and pay, or cause to be carried and paid for (i) appropriate builder's risk insurance and (ii) owner's contingent or protective liability insurance naming Landlord as an additional insured covering claims not covered by or under the terms of the above-required comprehensive public liability insurance, with combined

single limit coverage of not less than One Million Dollars (\$1,000,000.00).

In addition thereto, at any other time when Tenant maintains employees incident to operations in the Leased Premises, Tenant shall also carry and pay for, or cause to be carried and paid for, workmen's compensation insurance in statutory amounts covering all persons (other than employees of Landlord, if any), with respect to whom death or injury claims could be asserted against the Leased Premises or any part thereof, or the interests of Landlord or Tenant therein.

Tenant shall deliver to Landlord certificates of insurance evidencing all workmen's compensation insurance policies and renewals thereof, promptly as and when such policies are issued and renewed. Tenant's fulfillment of the statutory requirements relating to self-insurance under workmen's compensation laws shall, upon proof of such compliance satisfactory to Landlord, be treated as compliance with the workmen's compensation insurance requirements of this Article.

10.11 Any insurance required to be furnished by Tenant may be effected by a policy or policies of blanket insurance, provided, however, that the amount of the total insurance allocated to the Improvements, as herein defined, shall be such as to furnish in protection the equivalent of separate policies in the amounts herein required, and provided, further, that, in all other

respects, any such policy or policies shall comply with the other provisions of this Lease.

10.12 Where the limits of and deductibles under insurance policies required hereunder are not specified herein, such limits and deductibles as are acceptable to the first Qualifying Leasehold Mortgagee shall be deemed to satisfy the requirements of this Lease in respect thereof.

10.13 The aforesaid minimum limits of insurance policies shall in no event limit the liability of Tenant hereunder. Insofar as and to the extent that the following provision may be effective without invalidating or making it impossible to secure insurance coverage obtainable from responsible insurance companies doing business in Massachusetts (even though extra premium may result therefrom) Landlord and Tenant mutually agree that, with respect to any loss which is covered by insurance then being carried by them, respectively, the one carrying such insurance and suffering said loss releases the other of and from any and all claims with respect to such loss and they further mutually agree that their respective insurance companies shall have no right of subrogation against the other on account thereof. In the event that extra premium is payable by either party as a result of this provision, the other party shall reimburse the party paying such premium the amount of such extra premium. If at the request of one party, this non-subrogation provision is waived, then the obligation of reimbursement shall cease for such period of time as such waiver

shall be effective, but nothing contained in this Section shall derogate from or otherwise affect releases elsewhere herein contained of either party for claims. Except with respect to reimbursement for extra premiums as hereinabove provided, Tenant shall bear all costs incurred by either party in complying with this Section 10.13.

ARTICLE 11

DAMAGE TO OR DESTRUCTION OF THE PROPERTY

11.1 Tenant agrees that, in case of damage to or destruction of any part of the Leased Premises, Improvements or Common Elements, by fire or otherwise, or should any part of the Leased Premises or Common Elements necessary to the use and enjoyment of the Leased Premises become untenable or unuseable for any reason, this Lease shall not terminate nor shall there be any abatement or reduction in the Base Rent, additional rent or other charges payable by Tenant, nor shall the respective rights or obligations of Landlord and Tenant be affected in any way, except as specifically provided in Section 11.4 of this Lease.

The terms "damage or destruction", for the purposes of applying this provision of this Lease, shall refer to any condition requiring correction to make the Improvements, Leased Premises, Common Elements, or any part thereof, tenantable or useable for its intended purposes.

11.2 Tenant agrees that in the event of any damage or destruction Tenant shall promptly notify Landlord. Except under the

circumstances where the Unit Owners of the Condominium shall unanimously vote not to repair, restore and rebuild the Common Elements, Tenant shall promptly (taking into consideration, however, the necessity of coordinating Tenant's work with the work to be undertaken by the Board of Managers of the Condominium with respect to the Common Elements thereof), repair, restore and rebuild the Improvements so that, upon the completion thereof and of said work to be undertaken by the Board of Managers, the Improvements and Common Elements shall have been restored to the condition required immediately prior to such damage or destruction, with such alterations thereof as may be made by Tenant in accordance with Section 13.2 hereof. The provisions and conditions of Article 13 governing procedures applicable to restoration, changes or alterations of Improvements shall be applicable to work required to be done under this Article.

11.3 All Proceeds (except as otherwise provided in Section 10.2 with respect to rent insurance and Section 11.4) shall be held and applied to the payment of the cost of repairing, restoring and rebuilding required by this Article in accordance with the provisions of Section 10.6 and Article 13 hereof.

11.4 In the event of damage to or destruction of any part of the Leased Premises, Improvements, or Common Elements, if the Unit Owners of the Condominium unanimously vote not to proceed with the repair or restoration thereof, this Lease shall terminate, effective the ____ day after the date of such damage and

destruction. The rent, Impositions or other charges herein provided to be paid by Tenant shall be apportioned to said date and any amounts prepaid by Tenant in excess of its liability based on such apportionment shall be refunded by Landlord to Tenant. In the event of termination of the Lease pursuant to this paragraph all Proceeds and the net proceeds allocable to the Leased Premises of any partition sale in respect of the Condominium and of any casualty insurance carried by the Board of Managers in respect of the Common Elements shall be distributed in accordance with the provisions of Section 12.4(b), it being understood that the term "Net Award" as used therein shall refer to the foregoing net proceeds, and the reference to "Leased Premises and Improvements not taken" shall mean the portions thereof remaining after such damage or destruction.

11.5 In the event of a distribution by the Board of Managers of the Condominium Association of hazard insurance proceeds in lieu of repair or restoration following a loss to the Common Elements in which this Lease is not terminated, any amounts payable to Landlord in respect of the Office/Retail Unit shall be distributed in accordance with the provisions of Section 12.4(a).

ARTICLE 12

CONDEMNATION

12.1 With respect to any exercise of the power of eminent domain (hereinafter referred to as a "Proceeding") or any agreement in lieu of condemnation (hereinafter referred to in this Article as an "Agreement") between Landlord, Tenant and those authorized or purporting to be authorized to exercise the power of eminent domain, for a conveyance to a condemning authority (such conveyance being hereafter in this Article referred to as "conveyed" or as a "conveyance"), Tenant and the Leasehold Mortgagee, in cooperation with Landlord, shall have the right to participate in negotiations, any Proceeding or any Agreement leading to an Award (as hereinafter defined) to protect their respective interests hereunder. The total Net Award made in such Proceeding or the consideration paid or payable pursuant to such Agreement in respect of all or the portion, as the case may be, of the Leased Premises and the Improvements so taken (hereinafter collectively or separately referred to as the "Award"), shall be paid by whomsoever received to the Depository, which shall apply the same as herein provided. The term "Net Award" shall mean the total Award, less all costs, expenses and attorneys' fees incurred in the collection thereof.

12.2 If, during the term of this Lease, the entire Leased Premises shall be taken as a result of a Proceeding or an Agreement, this Lease and all right, title and interest of Tenant here-

under shall terminate and come to an end on the date title shall vest in the condemning authority pursuant to such proceeding or Agreement, but shall not terminate as to the Award. In that event, the rent, additional rent, Impositions or other charges herein provided to be paid by Tenant shall be apportioned to the date title shall vest in the condemning authority in such Proceedings or pursuant to such Agreement and any amounts prepaid by Tenant in excess of its liability based on such apportionment shall be refunded by Landlord to Tenant. As to any such taking, the net Award shall be distributed as follows:

(a) The following values shall be determined as of the date title is vested in the condemning authority in such Proceeding or pursuant to such Agreement by agreement of the parties or, failing such agreement, by appraisal in the manner set forth in Section 12.2(c) hereof.

(x) The value of Landlord's interest in the Leased Premises. This shall be the then fair market value of the Leased Premises as encumbered by this Lease plus the residual value of the Improvements, all determined as if no taking had occurred.

(y) The value of Tenant's interest in the Leased Premises. This shall be the then fair market value of the Leased Premises recognizing that the residual value of the Improvements belongs to Landlord at the expiration of the term of this Lease, plus the value of the leasehold interest

under this Lease, taking into account the amounts to be paid and other obligations to be performed by Tenant under this Lease, all determined as if no taking had occurred.

(b) After making the determinations described in subparagraph (a), above, the Net Award shall be applied as follows:

(i) First, to Landlord as a first charge against the Net Award, an amount equal to the present value (determined by using a discount rate equal to the average yield on long-term single A Industrial bonds, as most recently reported prior to such determination by Moody's Investor Services or similarly qualified service if Moody's is no longer providing this information) as of the date title is vested in the condemning authority, of the Base Rent until the expiration of the term, but not in any event more than the value of Landlord's interest determined in accordance with clause (x) of Section 12.2(a) above.

(ii) Second, to the holders of Leasehold Mortgages for the account of Tenant, and as a second charge against the Net Award, an amount equal to the outstanding indebtedness secured by Leasehold Mortgages, said amount to be applied in the order of priority of said Leasehold Mortgages.

(iii) Third, to Landlord or Tenant as the case may be, the amount which is necessary to bring the amounts paid to Landlord under (i) above and to the Leasehold Mortgagees for the account of Tenant under (ii) above into proportion based

on the ratio of the value of Landlord's interest in the Leased Premises determined in accordance with Subclause (x) of clause (a) above, to the value of Tenant's interest in the Leased Premises determined above in accordance with subclause (y) of clause (a) above (said ratio being referred to herein as the "Value Ratio").

(iv) The balance, if any, shall be paid to Landlord and Tenant in proportion to the Value Ratio.

(c) If Landlord and Tenant are unable to agree on the values to be determined under Section 12.2(a), the values shall be determined by arbitration in the manner hereafter specified.

The party demanding such arbitration shall give written notice thereof to the other party and shall in such notice appoint as arbitrator a person having recognized expertise and not less than five years professional experience in the valuation of downtown, large-scale urban commercial real estate in the City of Boston. Within 20 days thereafter the other party shall by written notice to the original party appoint as arbitrator a second person having the aforesaid qualifications. The arbitrators thus appointed shall appoint a third person having the aforementioned qualifications, and said three arbitrators shall as promptly as possible determine such values, provided that

(i) If the second arbitrator shall not have been appointed as aforesaid the first arbitrator shall alone proceed to determine such matter.

(ii) If the two arbitrators appointed by the parties shall be unable to agree upon the selection of such third arbitrator within fifteen days after the appointment of the second arbitrator, they or either of them shall give written notice of such failure to agree to the parties, and, if the parties fail to agree upon the selection of such third arbitrator within fifteen days after the arbitrators appointed by the parties give notice as aforesaid then the third such arbitrator shall be the president of the Greater Boston Real Estate Board, or in his failure, refusal or inability to act, the parties may apply for such appointment to a court of competent jurisdiction. The parties shall be entitled to present evidence to the arbitrators in support of their respective positions.

(iii) The arbitrators may not make any determination inconsistent with any of the terms of this Lease or deprive any parties thereto of any right or warranty reserved in this Lease, or decide any matter other than the specific issue of the values to be determined under Section 12.2(a).

(iv) The determination of the majority of the arbitrators (or, if a majority in agreement shall not exist, the average of the two highest values determined by the

arbitrators), or of the sole arbitrator, as the case may be, shall be conclusive upon the parties. The arbitrators, or the sole arbitrator, as the case may be, shall give written notice to the parties stating their or his determination, and shall furnish to each party a signed copy thereof.

(v) Each party shall pay the fees and expenses of the arbitrator appointed by such party and one-half of the other expenses of the arbitration properly incurred hereunder.

12.3 Tenant hereby waives any and all claims against Landlord or the City of Boston to awards of damages, if any, to compensate for the closing, laying out, or change of grade of any street or other public way within or fronting or abutting on the Leased Premises which pursuant to the Plan as in effect on the date hereof is to be or is closed, laid out, or changed in grade. Landlord hereby waives the right to any share of the award of damages to Landlord's interest in the Leased Premises arising out of any taking made by Landlord.

12.4 (a) If, during the term of this Lease, a part of the Leased Premises shall be taken or conveyed, this Lease shall terminate and come to an end as to the part of the Leased Premises which is taken, upon the date title is vested in the condemning authority in such Proceeding or pursuant to such Agreement, but shall not terminate as to the Award for the part of the Leased Premises which is taken, and otherwise this Lease shall continue

in full force and effect as to the remainder of the Leased Premises, subject to the provisions of Section 12.4(b) hereof.

Except under the circumstances where the Unit Owners of the Condominium shall unanimously vote not to repair, restore or rebuild the balance of the Common Elements not so taken, if there is a taking of the type provided for in this Section 12.4, then, as to the part of the Leased Premises not so taken, Tenant covenants and agrees, for itself and its successors in interest, that Tenant shall promptly (taking into consideration, however the necessity of coordinating Tenant's work with the work to be undertaken by the Board of Managers with respect to the Common Elements) restore that portion of the Improvements not so taken so as to provide with said restored Common Elements a complete architectural unit for the use and occupancy of Tenant (and those claiming under Tenant) as in this Lease and the Master Deed, expressed or anticipated. The provisions and conditions of Article 13 of this Lease shall, to the extent applicable, apply to the work required to be done by Tenant under this Section. As to any such taking, the Net Award shall be distributed as follows

(i) First to Tenant, to the extent of and as a first charge against the Net Award, an amount not exceeding the actual cost reasonably incurred by Tenant in performing its obligations to restore pursuant to this Section, and in

performing any other obligations under this Lease imposed upon Tenant as the result of the taking.

(ii) The balance of the Net Award, if any, shall be paid to Landlord and Tenant in proportion to the Value Ratio determined in accordance with Section 12.2(a) and if necessary, by arbitration in accordance with Section 12.2(c).

If there is a taking provided for in this Section resulting in Leased Premises of lesser internal area than existed prior to the taking, annual Base Rent shall be abated from and after the date of taking by an amount equal to the diminution (measured in square feet) in the internal floor area of the Leased Premises, multiplied by \$3.80.

(b) In the event a taking provided for in this Section 12.4 so diminishes or impairs the use of the Leased Premises or Improvements or the Common Elements associated therewith that notwithstanding restoration Tenant would be unable to make any kind of economic use of the remainder thereof for the purposes permitted by this Lease or contemplated by the Master Deed, or if the Unit Owners of the Condominium unanimously vote not to proceed with the repair or restoration of the balance of the Common Elements remaining after such taking, Tenant, at its option exercisable by notice to Landlord given not later than ninety (90) days after title is vested in the condemning authority in such Proceeding or pursuant to such Agreement, may terminate this Lease as of such date. In the event of such Termination, the rent,

Impositions or other charges herein provided to be paid by Tenant shall be apportioned to said date and any amounts prepaid by Tenant in excess of its liability based on such apportionment shall be refunded by Landlord to Tenant and the Net Award and the net proceeds allocable to the Leased Premises of any partition sale in respect of the Condominium shall be allocated and distributed in the manner provided in Section 12.2 (except that if there is no Condominium partition sale the value of Landlord's interest in the Net Award determined under Section 12.2(a)(x) shall be reduced by the value of the portion of the Leased Premises and Improvements not taken and the amount to be applied under Section 12.2(b)(i) shall be reduced by the discounted fair rental value of the portion of the Leased Premises not taken for the unexpired portion of the term of this Lease).

12.5 If there shall be a taking or conveyance, as aforesaid, of any vault or other space not included within the Leased Premises as above described, or a taking or conveyance which shall result in the removal of projecting portions of any Improvements upon any street for which Tenant is not entitled to compensation as a matter of law, or a taking or conveyance of an underground right-of-way for a subway, conduit or other purpose not necessitating the demolition or substantial alteration of any portion of any of the Improvements or any taking of property not included within the Leased Premises, Common Elements, or Improvements which deprives Tenant of the beneficial enjoyment of any portion of the

Leased Premises or Improvements, any such taking or conveyance shall not be treated as a taking of any part of the Leased Premises or the Improvements for the purposes of this Article, this Lease shall not be affected by any such taking or conveyance of the nature in this Section 12.5 referred to, any alteration to the Leased Premises or Improvements required because of a taking or conveyance of the nature in this Section 12.5 provided, shall be done by Tenant, and the provisions of this Article 12 shall apply to the distribution of the Net Award and the provisions of Article 13 shall apply to any alteration required to be done under this Section.

12.6 If the use of the Leased Premises or the Improvements, or any part of either, shall be taken by the exercise of the power of eminent domain for a period of time, definite or indefinite, whether or not for the entire unexpired portion of the term of this Lease or for a period greater than the same, this Lease shall, nevertheless, continue in full force and effect and Tenant shall have the right (except as hereinafter provided) to receive the entire Award (which Award, in the case provided for by this Section 12.6, is called the "Use Award") which is allocable to that part of the unexpired portion of the term of this Lease to which the Use Award relates. Tenant shall have no rights against Landlord by reason of such taking, including, without limitation, any right to an abatement of rent or any other charges payable by Tenant, or the performance of any obligation to be performed by

Tenant, and the rights and liabilities of Landlord and Tenant to each other shall be the same as if there had been no such taking. Notwithstanding the foregoing, Tenant and the Leasehold Mortgagee, in cooperation with Landlord, shall have the right to participate in negotiations relative to any such taking or the Use Award in order to be certain that their respective interests thereunder are protected, with all cost and expense thereof to be a first charge against the Use Award.

The Use Award shall be paid, however, by Tenant to The Depository for application, as hereinafter set forth, after deduction therefrom of all cost and expense reasonably incurred incident to obtaining such Use Award.

The Use Award shall be held and disbursed as follows:

(a) If the same is payable in monthly or other periodic installments, such installments shall as received by the Depository be applied on account of, and to the extent of, Tenant's obligations on account of Base Rent and additional rent payable by Tenant on account of such period; and the dollar value of obligations to be performed by Tenant shall, on a proportionate basis, also be satisfied from such periodic installments. Any balance of such periodic installments remaining shall be paid to Tenant, except that if such taking shall be for a period extending beyond the expiration of the term of this Lease, Landlord shall be

entitled to the entire Use Award attributable to the period after such expiration.

(b) Where the Use Award is in a lump sum or payable in installments less frequently than quarterly, the lump sum or other installments, together with investment earnings thereon, if any, shall be divided by the number of months included in the period for which such Award has been made and the quotient thereof shall be applied monthly, in accordance with subparagraph (a) above.

(c) To the extent an Use Award is allocable to the cost of repairs and restoration following the termination of a temporary taking prior to the expiration of this Lease, the same shall be treated as Proceeds, within the meaning of Article 13 below, and applied consistent therewith.

12.7 The proceeds of any award payable by the Board of Managers of the Condominium Association to Landlord as Unit Owner of the Office/Retail Unit in connection with any taking of all or any portion of the Common Elements in which this Lease is not terminated shall be distributed in accordance with Section 12.4(a).

ARTICLE 13

CONDITIONS GOVERNING REPAIR, RESTORATION, CHANGES AND ALTERATIONS

13.1 Whenever, under the provisions of Article 11 or Article 12 of this Lease, Tenant shall be obligated to restore, rebuild, repair, or make alterations to the Improvements, the cost of which will exceed \$250,000, (or the value equivalent at the time in

question), the amount of the Proceeds, or the amount of the Net Award (which amounts are hereinafter collectively referred to in this Article as the "Amounts"), as the case may be, shall be held and disbursed in accordance with the following provisions:

(a) Amounts on account of any casualty loss, Proceeding or Agreement (hereinafter collectively referred to as the "Event"), shall be delivered to the Depository as soon as available and, unless Tenant satisfies the requirements of clause (c) below, prior to commencement of the work of repair and restoration of the Improvements (hereinafter referred to as the "Work").

(b) Tenant shall submit to Landlord, for the approval of Landlord, a schedule of the estimated cost of the Work to be performed in accordance with the plans and specifications approved by Landlord pursuant to Section 13.2 and approved by said holder. To the extent feasible, said plans and specifications shall provide for such Work that, upon completion thereof, the Improvements shall be at least equal in value and general utility to the Improvements which were within the Leased Premises prior to the Event.

(c) Before the commencement of the Work, Tenant shall furnish evidence satisfactory to Landlord that Tenant has available to it funds at least equal to the amount b, which the estimated cost of the Work, as determined by Landlord on

the basis of Tenant's estimate as approved by Landlord, exceeds the Amounts theretofore delivered to the Depository under Section 13.1(a), it being understood that if Tenant is unable to provide said satisfactory evidence of available funds, Tenant shall be required to deliver said funds to the Depository prior to commencement of the Work.

(d) During the progress of the Work, Tenant shall submit to Landlord and the Depository, at periodic intervals, but not more frequently than monthly and with at least seven (7) days prior notice, a certificate approved as to accuracy by any consultant engaged by Landlord under subparagraph (f) of this Section 13.1 and approved as to the progress of the work indicated therein by the Architect or Tenant's engineer, showing the cost of labor and materials incorporated into the Work, or suitably stored at the Leased Premises (herein, "hard costs"), during the period specified in the certificate and the amount properly due and owing to contractors and suppliers on account thereof and to others for architectural, engineering and other so-called "soft costs", which period shall not include any part of the period covered by any other such certificate, and Depository, upon receipt of such certificate and approval(s) thereof by the Architect or Tenant's engineer as to the hard costs shown therein and by any consultant engaged by Landlord as aforesaid, shall pay to Tenant, from the deposit, if any, made with it by Tenant, and

upon the exhaustion thereof, from the Amounts, ninety percent (90%) of the lesser of such hard costs or amounts due and owing to contractors and suppliers on account thereof (disregarding any retainage which Tenant may have the right to withhold from amounts due and owing to contractors and suppliers, but which shall include, in making such computation, amounts due and owing to contractors and suppliers on account of work previously done and certified but, as to which, ninety percent (90%) payment thereof has not been made) and 100% of said soft costs, all as shown by such certificate. When required by Landlord and as a condition to any payment by Depository, evidence satisfactory to Landlord and said holder shall be furnished to the effect that the Depository is holding sums so deposited and Amounts remaining undisbursed which when added to funds available to Tenant are sufficient for the payment of all remaining costs of the Work (giving in such reasonable detail as said holder may require an estimate of the cost of such completion). If such evidence shall indicate the Depository is not holding funds which are so sufficient, Tenant shall forthwith deposit with the Depository the amount of the deficit, which it shall hold and disburse as above set forth. Such certificate shall also state that (i) all of the Work completed has been done in compliance with the approved plans and specifications, if any be required under subparagraph (a) of this Section 13.1, and

(ii) the sum requested is justly required to reimburse Tenant for payments by Tenant to, or is justly due to the contractor, subcontractors, materialmen, laborers, engineers, architects or other persons rendering services or materials for the Work (giving a brief description of such services and materials), and that when added to all sums previously paid out by Depository (less retainages) does not exceed the value of the Work done to the date of the certificate.

(e) Upon completion of the Work, and delivery to Landlord and Depository of a certificate from Tenant that the Work has been completed and all bills for labor and materials incurred in connection therewith have been paid, supported by a surety company bond or title evidence for which provision is hereinafter made, assuring such payment, together with a certificate from the Architect or Tenant's engineer that the Work has been substantially completed, the Depository shall, in the case of Amounts which are Proceeds of insurance, pay the balance in its possession to Tenant, and, in the case of the Proceeds of any Proceeding or Agreement, apply the balance first to reimburse Tenant for any amounts required to be deposited by Tenant under (c) or (d) and then to Landlord, Tenant and anyone claiming by, through or under Tenant (including the Leasehold Mortgagee), those portions of any

balance in Depository's possession to which the respective parties may be entitled pursuant to Section 12.4(a)(ii).

(f) If Landlord determines that, prior to giving its approval to any plans and specifications or estimated schedule of costs, or before honoring certificates calling for payment from the funds to be deposited with Depository, it is appropriate to retain, for itself, independent professional assistance of an architectural or engineering consultant, Landlord shall have the right so to do, and, if Tenant shall not be proceeding as required hereunder with respect to prosecution of the Work, the reasonable fees and expenses of such consultant for such services shall be paid by Tenant and shall be treated as a part of the cost of the Work in determining amounts required to be made available for such purposes.

13.2 Any restoration, rebuilding, repair, or alteration undertaken by Tenant pursuant to Article 11 or 12 of this Lease the cost of which will exceed \$250,000 (or its value equivalent at the time in question) or any construction requiring approval of Landlord under Section 8.1 hereof shall produce Improvements substantially conforming to the Final Drawings and Specifications referred to in the Ground Lease, or in accordance with such amendments thereto as from time to time Tenant may propose, it being expressly agreed that in connection with any restoration and rebuilding to be made by Tenant hereunder (including restoration and

rebuilding the cost of which will not exceed \$250,000, or its value equivalent at the time in question), Tenant may make amendments to said Final Drawing and Specifications, provided that in connection with such amendments Tenant shall comply with the provisions of the Design Review Procedure referred to in the Ground Lease and with Section 8.1, to the extent applicable. The provisions of Sections 7.5, 7.6(c) and 7.7 through 7.12, inclusive, of the Ground Lease shall be applicable to such restoration, rebuilding, repair, or alteration referred to in this Section 13.2.

13.3 Reconstruction, demolition, subtractions, additions, or changes which Tenant proposes to make in accordance with the terms of Article 8 hereof, shall be subject to this Article, by which it is intended that such changes or alterations shall be treated as being attributable to an Event, within the meaning of Section 13.1 hereof, the changes or alterations shall be treated as Work within the meaning of Section 13.1, and all requirements in Section 13.1 dealing with the conditions under which the Work may proceed, shall be applicable to such changes or alterations, except that no deposit need be made with the Depository if, in fact, the changes or alterations proposed do not arise from an Event of Default.

13.4 As to all Work governed by this Article (including Work pursuant to Article 11) Tenant shall promptly commence and diligently complete the same within a reasonable time, subject only to delays in the receipt of necessary governmental approvals to proceed with such Work, delays experienced in pursuing claims for

Amounts or occasioned by timing of receipts of Amounts, claims arising from an Event, delays occasioned by the necessity of coordinating the Work with the work to be performed by the Board of Managers in respect of Common Elements, and delays due to causes beyond Tenant's control and without its fault or negligence (herein, "Force Majeure Delay"), including but not restricted to, acts of God, or of the public enemy, acts and restrictions of government, acts of Landlord constituting breaches of its covenants or obligations hereunder, fires, floods, epidemics, quarantine restrictions, strikes and other labor difficulties, general unavailability of labor or materials, freight embargoes, and unusually severe weather or delays of subcontractors and suppliers due to such causes, but financial inability (except delays experienced in pursuing claims for Amounts and occasioned by timing of receipts of Amounts) to proceed shall never be treated as a cause beyond Tenant's control. Tenant shall give Landlord written notice of any Force Majeure Delay within ten (10) business days after the beginning of each such delay setting forth the cause thereof, and there shall be excluded in computing the duration of any Force Majeure Delay the period from the date of beginning of such delay to the date Tenant gives Landlord notice thereof, unless such notice is given within the aforesaid ten (10) business day period.

13.5 Whenever payments are made to or for the account of Tenant under this Article, Landlord and/or the Depository shall be entitled to require that (i) each request for payment shall be

accompanied by waivers of lien effective contemporaneously with payment satisfactory to Landlord and/or the Depository covering that part of the Work for which payment or reimbursement is being requested and by a search prepared by a title company or licensed abstractor or by other evidence satisfactory to Landlord and/or Depository, that there has not been filed with respect to the Leased Premises any mechanics' or other lien or instrument for the retention of title in respect of any part of the Work not discharged of record; and (ii) the request for any payment after the Work has been completed shall be accompanied by a copy of any certificate or certificates required by law to render occupancy of the Leased Premises legal.

13.6 Upon the completion of the Work and payment in full therefor, Depository will pay the amount of any such proceeds then or thereafter in the hands of Depository to Tenant, provided, however, that if Depository has received notice from a Qualifying Leasehold Mortgagee holding the first mortgage that the excess proceeds should be paid over to it, then Depository shall so pay such proceeds to such Qualifying Leasehold Mortgagee.

ARTICLE 14

WASTE

14.1 Tenant covenants not to do or suffer any waste or damage, disfigurement or injury to the Leased Premises, or permit or suffer any overloading of the floors of the Improvements therein.

ARTICLE 15

INSPECTION OF PREMISES

15.1 Tenant agrees to permit Landlord, and its authorized representatives, to enter the Leased Premises at all times during usual business hours for the purpose of inspecting the same and, for the purpose of making any necessary repairs to the Improvements or performing any work therein that Tenant has failed to make or perform and which Landlord may determine to be necessary to comply with any laws, ordinances, rules, regulations or requirements of any public authority or to prevent waste or deterioration in connection with the Improvements. Landlord shall not be entitled to exercise rights hereunder other than inspection except after notice to Tenant in accordance with Article 18 and the expiration of any grace periods available to Tenant or except where Landlord shall determine that prompt attention is required to prevent injury to persons or property or to the Improvements, in which latter situation Landlord shall give to Tenant such notice, if any, as may be appropriate in the circumstances. All repairs and other work performed by Landlord pursuant to this paragraph shall be done diligently and promptly and in such manner as shall minimize as much as possible interference with Tenant's use of the Leased Premises, and upon completion thereof Landlord shall restore to its prior condition all other portions of the Improvements affected by such work.

Nothing herein shall imply any duty upon the part of Landlord to do any such work which, under any provision of this Lease, Tenant may be required to perform, and the performance thereof by Landlord shall not constitute a waiver of Tenant's default in failing to perform the same.

Landlord may, during the progress of any work performed by it on the Leased Premises, keep and store upon the Leased Premises, in a manner that will not interfere substantially with the rights of any subtenant, all necessary materials, tools and equipment. Landlord shall not, in any event, be liable for inconvenience, annoyance, disturbance, loss of business, or other direct or consequential damage to Tenant by reason of making repairs or the performance of any work on the Leased Premises, or on account of bringing materials, supplies and equipment onto or through the Leased Premises during the course thereof, and the obligations of Tenant under this Lease shall not thereby be affected in any manner whatsoever.

15.2 Landlord is hereby given the right during usual business hours to enter the Leased Premises during the term for the purpose of showing the same to prospective purchasers or others, where the reasonable business purposes of Landlord make such display appropriate. Where, under any provision of this Article 15, access is sought by Landlord to areas not normally accessible to the public,

Landlord shall give Tenant forty-eight (48) hours' prior notice before entering the Leased Premises and Tenant shall make such areas available for entry by Landlord.

ARTICLE 16

PAYMENTS TO PUBLIC UTILITIES

16.1 To the extent not already included in General Common Charges and Special Common Charges payable by Tenant pursuant to Section 4.1 above, Tenant shall pay or cause to be paid when due all use and consumption charges and service fees and the like for all public utilities used upon or furnished to the Leased Premises during the term hereof, including, without limitation, charges for water, gas, electricity and telephone service.

16.2 In addition to paying for all utility use and consumption charges and service fees as hereinabove required, Tenant shall also, at its sole cost and expense, procure any and all necessary permits, licenses or other authorizations required for the lawful and proper installation and maintenance upon the Leased Premises of poles, wires, pipes, conduits, tubes and other equipment and appliances for use in supplying any utilities servicing the Leased Premises, excluding, however, those which are Common Elements, and Landlord shall cooperate with Tenant in procuring the same, including signing all necessary applications and related documents with respect thereto.

ARTICLE 17

LANDLORD'S RIGHT TO PERFORM TENANT'S COVENANTS

17.1 Tenant covenants and agrees that if it shall at any time fail to pay any Imposition Tenant is obligated to pay pursuant to the provisions of Article 4 hereof, or to take out, pay for, maintain or deliver any of the insurance policies provided for in Article 10 hereof, or shall fail to make any other payment, perform any other act or comply with any other covenant on its part to be made, performed or complied with as in this Lease provided, and in any case such failure shall have continued beyond any grace, permitted delay or notice period herein, Landlord shall have the right, without any obligation so to do, without waiving Landlord's other rights or remedies hereunder and without notice to or demand upon Tenant in an emergency, or otherwise after ten (10) days' notice, and without waiving, or releasing Tenant from, any obligations of Tenant in this Lease contained, pay any Imposition, effect any such insurance coverage and pay premiums therefor, and may make any other payment, perform any other act or comply with any other covenant on the part of Tenant to be made, performed and complied with, as in this Lease provided, in such manner and to such extent as Landlord may deem desirable, and, in exercising any such rights, pay necessary and incidental reasonable costs and expenses, and employ counsel and incur and pay their reasonable fees and expenses.

17.2 Tenant shall on demand reimburse Landlord for all amounts expended by or on behalf of Landlord under Section 17.1 and the same shall be treated as additional rent hereunder. Interest thereon at the rate hereinafter set forth shall be paid thereon from the date Landlord shall make any such expenditure.

ARTICLE 18

LANDLORD'S REMEDIES AND BREACH

18.1 Upon an "Event of Default" (as defined herein) Landlord shall have the following remedies, in addition to all other rights and remedies provided by law or otherwise provided in this Lease, to which Landlord may resort cumulatively, or in the alternative and in any order:

(a) Landlord may, at Landlord's election, keep this Lease in effect and enforce all of its rights and remedies under this Lease, including the right to recover the rent and other sums as they become due by appropriate legal action.

(b) Landlord may, at Landlord's election, terminate this Lease by giving Tenant written notice of termination. On the giving of the notice in accordance with the terms of this Lease all of Tenant's right in the Leased Premises shall terminate. Promptly after notice of termination, Tenant shall surrender and vacate the Leased Premises in broom clean condition, and Landlord may re-enter and take possession of the Leased Premises and eject Tenant, or any other person or persons claiming any right under or through Tenant or eject some and not others or eject none. This

Lease may also be terminated by a judgment specifically providing for termination. Any termination under this Section shall not relieve Tenant from the payment of any sums then due to Landlord or from any claim for damages or rent previously accrued or then accruing against Tenant. In no event shall any one or more of the following actions taken by Landlord, after the occurrence of an Event of Default, in the absence of a written election by Landlord to terminate this Lease, constitute a termination of this Lease:

(i) appointment of a receiver in order to protect Landlord's interest hereunder;

(ii) consent to any subletting of the Leased Premises or assignment of this Lease by Tenant, whether pursuant to the provisions hereof with relation to assignment or subletting, or otherwise;

(iii) any other action by Landlord or Landlord's agents intended to mitigate the adverse effects of any breach of this Lease by Tenant, including, without limitation, action to maintain and preserve the Leased Premises and Improvements or any action taken to relet the Leased Premises, or any portions thereof, for the account of Tenant and in the name of Tenant. *

(c) Landlord may at Landlord's election re-enter and take possession of the Leased Premises, and without terminating this Lease, and at any time from time to time, relet the Leased Premises or any part or parts of it for the account and in the

names of Tenant or otherwise. Tenant shall nevertheless pay to Landlord on the due dates specified in this Lease all sums required of Tenant under this Lease, plus Landlord's expenses, less the proceeds of any such reletting and all other net operating revenues. No act by or on behalf of Landlord, including those described in subparagraphs (b)(i), (ii) and (iii) above, under this provision shall constitute a termination of Tenant's right to possession under this Lease unless Landlord gives Tenant written notice of termination.

(d) In the event Landlord terminates this Lease, Landlord shall be entitled at Landlord's election to damages in the following sums:

(i) the worth at the time of award of the unpaid rent which has been earned at the time of termination; plus

(ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the fair market rental value reasonably achievable for such period; plus

(iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the fair market rental value reasonably achievable for such period; and

(iv) any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease, or which in

the ordinary course of things would be likely to result therefrom including without limitation, the following: (v) expenses for cleaning, repairing or restoring the Leased Premises; (w) expenses for altering, remodeling or otherwise improving the Leased Premises and Improvements for the purpose of reletting, including installation of leasehold improvements (whether such installation be funded by a reduction of rent, direct payment or allowance to Tenant, or otherwise); (x) broker's fees, advertising costs, and costs of carrying the Leased Premises such as taxes and insurance premiums thereon, utilities and security precautions; (y) expenses in retaking possession of the Leased Premises; and (z) reasonable attorney's fees and court costs.

(v) The "worth at the time of award" of the amounts referred to in subparagraphs (i) and (ii) above is computed by allowing interest at the rate hereinafter set forth. The "worth at the time of award" of the amount referred to in subparagraph (iii) above is computed by discounting such amount at the discount rate of the Federal Reserve Bank of Boston at the time of the award.

(vi) The foregoing provisions respecting damages in the event Landlord terminates this Lease shall not be applicable to a Leasehold Mortgagee which has cured a default on the part of Tenant or which has entered into a new lease pursuant

to the provisions of Section 23.3(h) following a default by Tenant and termination of this Lease by Landlord.

18.2 A breach of this Lease shall exist if any of the following events (severally "Event of Default" and collectively "Events of Default") shall occur:

(a) Tenant shall have failed to pay the Base Rent or Percentage Rent when and as the same shall be due and payable and such failure shall continue in the case of the first such default during a Lease Year for a period of sixty (60) days, and in the case of any subsequent such default during the same Lease Year for a period of thirty (30) days, after written notice from Landlord in either such case;

(b) Tenant shall have failed to pay any other charge, additional rent, Imposition or any obligation of Tenant requiring the payment of money under the terms of this Lease (other than the payment of Base Rent or Percentage Rent) for sixty (60) days after written notice from Landlord; or

(c) Tenant shall have failed to perform any term, covenant, or condition of this Lease, to be performed by Tenant, except those requiring solely the payment of money, and Tenant shall have failed to cure the same within sixty (60) days after written notice from Landlord, except that, where such failure could not reasonably be cured within said sixty (60) day period, Tenant shall not be in default, and no Event of Default shall exist, unless Tenant has failed to promptly commence and thereafter be

continuing to make diligent and reasonable efforts to cure such failure as soon as practicable; or

(d) Tenant shall have made a general assignment of its assets for the benefit of its creditors; or

(e) Tenant shall have abandoned the Leased Premises; or

(f) (i) A court shall have made or entered any decree or order adjudging Tenant to be bankrupt or insolvent; (ii) a petition seeking reorganization of Tenant or an arrangement under the bankruptcy laws or any other applicable debtor's relief law or statute of the United States or any State thereof is filed against Tenant and not dismissed within sixty (60) days thereafter; (iii) a receiver, trustee or assignee of Tenant in bankruptcy or insolvency or for its property is appointed and not discharged within ninety (90) days thereafter; (iv) a court shall have made or entered any decree directing the winding up or liquidation of Tenant and such decree or order shall have continued for a period of ninety (90) days; or (v) Tenant shall have voluntarily submitted to or filed a petition seeking any such decree or order; or

(g) the sequestration or attachment of or execution or other levy on Tenant's interest in this Lease or the Leased Premises or any Improvements located therein shall have occurred and Tenant shall have failed to obtain a return or release of such property within sixty (60) days thereafter, or prior to sale pursuant to such levy, whichever first occurs;

(h) Tenant shall have admitted in writing its inability to meet its debts as they mature.

ARTICLE 19

ASSIGNMENT

19.1 Commencing on the Lease Commencement Date and continuing until the fifth anniversary of the Lease Commencement Date:

(a) No transfer (by assignment or otherwise) of all or any part of Tenant's rights under this Lease or of Tenant's interest in the leasehold estate created hereby or of any portion of the Leased Premises shall be made or suffered.

(b) No transfer or change of legal or beneficial interests in Tenant (or any successor entity to Tenant permitted hereunder) and no transfer of partnership interests in Tenant by sale, pledge or otherwise, shall be made or suffered.

The prohibitions expressed in (a) and (b) above against transfer of Tenant's interest under this Lease and against transfer of a legal or beneficial interest in Tenant shall not apply to the following:

(i) a transfer by reason of death or incapacity of an individual;

(ii) the granting of Leasehold Mortgages, or to a transfer by the holder of a Leasehold Mortgage or by any

party holding in good faith by, through or under a Leasehold Mortgage;

(iii) transfers not exceeding in the aggregate ten percent (10%) of the interests in Tenant (legal or beneficial) or in any entity having an interest in Tenant;

(iv) transfers by any general partner of RWLP of any interest owned by him to his spouse, children or trusts for the benefit of his spouse or children, but only if after such transfers said general partner retains a general partnership interest in RWLP;

(v) (1) transfer by any general partner of RWLP of his interest therein to any other party or entity provided that at least any one of Norman Leventhal, Edwin N. Sidman, Alan M. Leventhal or Mark S. Leventhal (the "Original Partners") shall remain as the managing general partner of RWLP or alone or in combination with any other remaining Original Partner, shall own at least 51% of the general partnership interest in RWLP, or (2) the issuance of general partnership interests to Institutions; or

(vi) (1) the issuance or creation of new or additional limited partnership interests in, the admission of new limited partners to, or the transfer of limited partnership interests in, RWLP, Tenant or in any limited partnership created by Equitable to hold its joint venture interest in Tenant, or (2) the creation of a joint venture between RWLP

and an Institution in which RWLP is the managing joint venturer or the transfer by any such Institution of its joint venture interest to any other Institution, as hereinafter defined (it being understood that any such transfer by an Institution of its joint venture interest to another Institution shall be subject as to any further transfer to the restrictions set forth in this subparagraph (b)), provided simultaneously with each such issuance, creation or transfer the identity of any such new additional limited partners, or of any such Institutional joint venturer, is made known to Landlord, or (3) transfer by Equitable of its joint venture interest in Tenant to any subsidiary of Equitable or other Person which is controlled by Equitable, or to any other Institution, or (4) the transfer by any general partner of Tenant of all or any portion of its joint venture interest in Tenant to any other general partner of Tenant, provided that RWLP shall continue to be the managing general partner of Tenant, or (5) the execution and delivery of any executory contract including, without limitation, purchase and sale agreements, to be consummated after the fifth anniversary after the Lease Commencement Date. For the purposes of clauses (2) and (3) above the term "Institution" shall include any entity with a combined capital and surplus account, capital endowment or net worth of not less than \$50,000,000 provided said entity satisfies all of the other requirements of Section 32.4.

Subsequent to the fifth anniversary of the Lease Commencement Date, Tenant's interest in this Lease and the legal and beneficial interest in Tenant, may be freely transferred, in whole or in part, with the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed.

19.2 No transfer of Tenant's interest in this Lease shall be effective unless accomplished by suitable written instrument recorded in the office in which, by law, records relating to real estate in Boston, Massachusetts, are required to be filed to be effective against bona fide purchasers for value of such property, and a true and correct copy thereof, certified as such by the transferor and the transferee, shall have been sent to Landlord in the same fashion in which notices are required to be given under the terms of this Lease.

19.3 For the purposes of this Article 19:

(a) Tenant agrees that the ownership of this Lease and all of Tenant's right, title and interest in and to the Improvements shall be non-separable, and that an attempt to transfer any of Tenant's right, title or interest in the Improvements shall be null and void and a breach of this Lease, unless accompanied by a transfer and assignment of Tenant's estate under this Lease.

(b) References herein to transfer of Tenant's interest in this Lease or Tenant's estate mean a sale, assignment or other

disposition of the entire interest of Tenant in the Leased Premises. Partial transfers (other than subleases permitted pursuant to Section 20.1) shall not be permitted. A sublease of all or substantially all of the Leased Premises for any material part of the term of this Lease shall, for the purposes of this Article 19, be a transfer.

(c) Any transfer which is not permitted hereby or by Article 20 and which is made without Landlord's consent shall be void and of no force or effect.

ARTICLE 20

SUBLETTING

20.1 Notwithstanding anything in this Lease to the contrary, Tenant may without Landlord's consent sublet any part of the Leased Premises at any time and from time to time to such occupancy tenants and upon such terms and conditions as Tenant shall deem appropriate. The preceding sentence shall not refer to a sublease to a party which is an Affiliate of Tenant, which subleases shall be subject to Landlord's prior written approval which shall not be unreasonably withheld. The term "Affiliate" shall refer to any Person which controls, is controlled by or is under common control with any one of Tenant, Equitable or The Beacon Companies.

20.2 Landlord hereby agrees, for the benefit of any occupancy tenant under any sublease for use or occupancy of space in the

Leased Premises which meet the following criteria, that, upon termination of this Lease (and notwithstanding any contrary provision required to be included in such leases pursuant to Section 20.3 below, but only as long as such occupancy tenant has satisfied its attornment obligations as provided in said Section 20.3) it will recognize and give effect to all such subleases then in effect which (a) have priority over any Leasehold Mortgage or as to which the holders of any Leasehold Mortgage have entered into an agreement to recognize and give effect to such sublease in the event of a foreclosure of any Leasehold Mortgage and (b) are so-called "net" leases containing requirements for the payment by such occupancy tenant of rental in monthly installments and additional rental for increases in real estate taxes and operating expenses as may have been (at the time of execution of such sublease) customary in leases of first class office building space in the City of Boston. Landlord shall enter into recordable instruments with any such occupancy tenants, as requested by Tenant, embodying the provisions of this Section 20.2 provided that any such instrument requires, as a condition of Landlord's obligations, that such occupancy tenant shall attorn to Landlord simultaneously with such termination, (i.e., each such occupancy tenant shall agree directly with Landlord, by written instrument satisfactory to Landlord, that it will perform all its obligations as subtenant

under such sublease for the benefit of Landlord, as if Landlord were the sub-landlord named in the sublease).

Tenant covenants and agrees that in the event of the cancellation or termination of this Lease by reason of an Event of Default prior to the expiration of the term hereof, unless Landlord shall have previously agreed in writing to recognize any such leases or subleases following the expiration or sooner termination of this Lease, Landlord shall have the option to terminate or cancel each such lease or sublease; provided, with regard to (i) leases or subleases which Landlord shall have agreed in writing to so recognize and (ii) leases or subleases which Landlord does not elect to so cancel or terminate, the occupancy tenant under each such lease or sublease shall make full and complete attornment to Landlord for the balance of the term of such lease or sublease with the same force and effect as though said lease or sublease were originally made directly from Landlord to the occupancy tenant.

20.3 Each sublease entered into by Tenant shall contain provisions substantially similar to the following provisions, unless Landlord shall otherwise specifically agree:

"If, at any time during the term of this lease, the landlord of the demised premises shall be the holder of a leasehold estate covering premises which include the demised premises, and if such leasehold estate shall terminate or be terminated for any reason, lessee agrees, at the election and upon demand of any owner of the premises which include the demised premises, to attorn, from time to time, to any such owner, upon the terms and conditions set forth herein, for the remainder of the

term demised by this lease. The foregoing provisions shall inure to the benefit of any such owner, shall apply to the tenancy of the lessee hereunder, and shall be self-operative upon any such demand, without requiring any further instrument to give effect to said provisions. Lessee hereunder, however, upon demand of any such owner, agrees to execute, from time to time, an instrument in confirmation of the foregoing provisions, satisfactory to such owner, in which lessee shall acknowledge such attornment and shall set forth the terms and conditions of its tenancy, which shall be the same as those set forth herein and shall apply for the remainder of the term originally demised in this lease. However, until such owner shall require such attornment, or shall otherwise elect, lessee shall pay to such owner, from and after the time of such termination, the rent and all other charges payable by lessee and shall perform, for the benefit of such owner, all obligations of lessee to be performed under its lease. Nothing contained in this paragraph shall be construed to impair any right, privilege or option of any such owner."

ARTICLE 21

LANDLORD'S SECURITY INTEREST; COVENANT AGAINST ENCUMBRANCES; ASSIGNMENT OF SUBLEASES

21.1 Further to secure the performance of all the obligations of Tenant under this Lease, Tenant hereby grants, bargains, sells and mortgages to Landlord all right, title and interest of Tenant in and to all equipment, goods, chattels and personal property located within the Leased Premises and owned by Tenant, and agrees to execute such financing statements as may be required by the Uniform Commercial Code as enacted and in force in the Commonwealth of Massachusetts, from time to time, to perfect the security interest intended to be created hereby. Tenant hereby assigns to Landlord all the rents, issues, profits and income under all present and future leases or subleases of all or any portion of

the Leased Premises to secure the payment of the rents and all other charges payable by Tenant under this Lease, as well as to secure the performance of all the covenants and provisions of Tenant under this Lease, the non-occurrence of conditions under this Lease which confer upon Landlord the right to terminate the same, or cause the termination of the same; and Landlord shall be entitled, as a matter of right after the expiration of all notice and grace periods, to have a receiver appointed to take possession of the Leased Premises with power to collect the rents, issues, profits and income of the Leased Premises and relet the same under order of court or otherwise.

Landlord agrees that, until an Event of Default shall occur hereunder, as to which notice has been given and the time within which to cure has elapsed, if any, Tenant may, subject to the rights and obligations of any Leasehold Mortgagee set out under Article 23 hereof (and whether such rights exist under its Leasehold Mortgage or documents given to it as supplemental security for its loan) collect, receive and enjoy the rents, issues, profits and income of the Leased Premises.

21.2 Tenant shall have no right or power to, and Tenant shall not, in any way, encumber the fee simple title of Landlord in and to the Leased Premises, nor shall such fee simple estate or other interest of Landlord be in any way subject to any claim against Tenant by way of lien, or otherwise, whether arising by operation of law, by express or implied contract or in any other manner, and

any such encumbrance or claim by way of lien or otherwise upon the Leased Premises, whether arising by operation of law, by any act or omission of Tenant or in any other manner, shall accrue only against the leasehold estate of Tenant.

If any such encumbrance or claim by way of lien or otherwise shall exist or be asserted against the fee simple title of Landlord in and to the Leased Premises then, in addition to any other right or remedy which Landlord may have under this Lease or at law or in equity, Landlord shall have the right, without any obligation so to do, to discharge or pay the same, including the payment of penalties, interest and costs claimed to be due, provided Tenant shall first have been notified of Landlord's intent to take such action and Tenant shall have failed to pay or cause to be discharged such encumbrance or lien within thirty (30) days thereafter. All amounts paid and all costs and expenses incurred by Landlord (including reasonable attorneys' fees) pursuant to the provisions of this Section, together with interest thereon from the date of any payment or expenditure by Landlord at the annual rate hereinafter set forth, shall constitute additional rent hereunder and shall be payable to Landlord on demand.

21.3 Tenant hereby assigns to Landlord all existing subleases affecting the Leased Premises, or any part hereof, and shall and does hereby assign any future subleases to Landlord upon execution thereof, as further security for the payment of the rent reserved hereunder and for the performance of the covenants and provisions

in this Lease contained, reserving, however, the right from time to time to terminate, modify and otherwise exercise its rights as landlord thereunder with respect to such existing and future subleases without Landlord's consent provided that (except for subleases as to which Landlord's consent was required in connection with the original execution thereof pursuant to Section 20.1 or would be required under said Section in respect of said sublease as so modified), as to subleases which Landlord has agreed to recognize pursuant to Section 20.2, said subleases as so modified shall continue to meet the criteria set forth in clauses (a) and (b) of Section 20.2. Such assignment of future subleases to Landlord shall be in form satisfactory to Landlord, and this assignment and any future assignments shall permit Tenant to continue to collect the rent falling due under such subleases, but not more than one month in advance, so long as there shall be no Event of Default under this Lease.

Tenant agrees to execute such instruments in confirmation of this assignment, containing such terms and provisions as Landlord may reasonably require, consistent with the provisions of this Section 21.3

21.4 The assignment by Tenant of Tenant's interest in any sublease, or the rents payable thereunder, shall not constitute an assumption by Landlord of any obligations of the landlord or sublandlord thereunder, unless and until Landlord shall specifically

otherwise elect; and all subleases executed by Tenant shall so provide, unless Landlord shall otherwise consent in writing.

21.5 So long as this Lease shall be in effect the rights and interests granted to Landlord under the provisions of this Article 21 shall in all events be subject and subordinate to the rights and interests of all Leasehold Mortgagees under Article 23 hereof and under all the terms and provisions of such Leasehold Mortgages and any other instrument or agreement given to secure or in connection with their loans to Tenant.

ARTICLE 22

TITLE TO LEASED PREMISES AND IMPROVEMENTS; SURRENDER OF LEASED PREMISES

22.1 Reference is made to the fact that the Initial Improvements included in the Condominium (whether as Common Elements or as part of a Unit therein) have been constructed by Tenant as lessee under the Ground Lease and that pursuant to Article 24 of the Ground Lease title thereto has remained in Tenant; that Landlord as owner of the land demised to Tenant under the Ground Lease (the "Land"), and Tenant, as owner of the Initial Improvements, have, as co-signatories of the Master Deed, subjected their respective ownership interests in the foregoing property to the Condominium; and that for all taxation purposes the parties wish to continue to recognize their respective separate ownership of the Land (in the case of Landlord) and the Initial Improvements (in the case of Tenant) until the expiration or earlier termination of this Lease. Accordingly, Landlord and Tenant acknowledge

and agree that until the expiration or earlier termination of this Lease Tenant alone shall be entitled to claim depreciation for the Initial Improvements and all other depreciable property included in the Office/Retail Unit and the Condominium. Landlord and Tenant further acknowledge and agree that title to the Improvements is, shall be and shall remain in Tenant until the termination of this Lease, however the same occurs.

22.2 Tenant agrees that its interest in the Leased Premises and Improvements shall become subject to the terms and conditions of this Lease and that any grantees or assignees of its interest in the Leased Premises and Improvements or this Lease shall take subject to and be bound by the terms and conditions of this Lease, expressly including the following provisions:

(a) Upon the expiration or earlier termination of this Lease, however the same occurs, but subject to the provisions of Article 24, title to Tenant's interest in the Leased Premises and Improvements shall automatically vest in Landlord and Landlord shall be the sole and absolute owner thereof, free of any right, title, interest or estate of Tenant therein, without the execution of any further instrument and without payment of any money or other consideration therefor, except, only, that in the event of the termination of this Lease under circumstances allowing the Leasehold Mortgagee to obtain a new lease under the provisions of Section 23.3(h) and if, at that time, the Leasehold Mortgagee shall exercise its rights under said Section 23.3(h), then

Tenant's interest in the Leased Premises and Improvements, to the extent then existing, shall automatically pass to, vest in and belong to the Leasehold Mortgagee, or any permitted successor to the Leasehold Mortgagee, until the termination of such new lease, however the same occurs. Landlord and Tenant shall execute such further assurances of title as may be requisite to implement the preceding sentence. Tenant hereby grants, releases, transfers, sets over, assigns and conveys to Landlord all of its right, title and interest in and to the Leased Premises and Improvements effective upon the termination or expiration of this Lease. Nothing herein contained shall adversely affect Tenant's title to the Improvements and any right that Tenant may have to quiet enjoyment and possession so long as this Lease shall continue in force and effect. Further, until the termination of this Lease, Tenant alone may claim depreciation of the Leased Premises and Improvements for all taxation purposes to the extent that it may legally be entitled to make such claim.

(b) Tenant shall, upon such termination, well and truly surrender and deliver the Leased Premises and deliver the Improvements, excepting any subtenants' movable trade fixtures, machinery, equipment and personal property (without any payment or allowance whatsoever to Tenant on account of, or for, the Improvements or any part thereof) to the possession and use of Landlord, without fraud or delay and in the same order and condition originally constructed, ordinary wear and tear excepted and as

from time to time altered not in violation of this Lease, and further subject to damage by fire or other casualty.

(c) Tenant covenants and agrees that, without the prior written consent of Landlord, it will not execute and deliver or renew any sublease to a subtenant which would extend beyond the then term of this Lease (and, for the purposes of this provision, any rights of extension in any sublease shall be treated as having been exercised by the subtenant), it being the intention of the parties that, except as Landlord may otherwise agree, and subject to the provisions of Article 24, Landlord, at the termination of this Lease, shall be the sole owner of the Leased Premises and Improvements, not subject to any lease, or subtenants' rights of any kind.

(d) Subject to the provisions of Article 23, Landlord, upon termination of this Lease for any reason, may, without notice (any notice to quit or intention to re-enter required by law being expressly waived by Tenant), re-enter upon the Leased Premises and possess itself thereof by summary proceedings, ejectment or otherwise, and may dispossess Tenant and remove Tenant and all other persons and property from the Leased Premises which it may elect so to dispossess, to the extent that it has not theretofore otherwise agreed, and may enjoy the Leased Premises and have the right to receive all rents and other income from the same, without hindrance or interference from Tenant or anyone claiming by, through or under Tenant. Any personal property of Tenant remaining on the Leased Premises beyond thirty (30) days after termination of this

Lease shall be treated as having been abandoned by it and be retained by Landlord as its sole property or be disposed of, without liability or accountability, as Landlord sees fit.

22.3 Tenant shall at the expiration or earlier termination of this Lease execute such documentation as Landlord may require to transfer or confirm transfer of title to Tenant's interest in the Leased Premises and the Improvements to Landlord, as hereinabove set forth, including, without limitation, a deed of Tenant's interest in the Office/Retail Unit.

ARTICLE 23

LEASEHOLD MORTGAGES

23.1 Notwithstanding any other provisions of this Lease, Tenant shall at all times and from time to time have the right to encumber, pledge, or convey all of its leasehold estate in the Leased Premises, its title to and interest in the Improvements by way of one or more bona fide Leasehold Mortgages (and, where appropriate, by grant of a security interest under the Uniform Commercial Code and by assignment of leases and rents) to secure the payment of any loan or loans obtained by Tenant; provided, however, that Tenant shall give prior written notice to Landlord of its intent to exercise such rights hereunder, including in such notice the name(s) and address(es) of such Leasehold Mortgagee and any other information regarding the Leasehold Mortgage and security documents which Landlord may require.

23.2 If a Leasehold Mortgagee shall, by written notice to Landlord given within thirty (30) days after the execution,

delivery and recording of a Leasehold Mortgage, notify Landlord thereof and of the name and addresses of the Leasehold Mortgagee (and, if it so desires, its counsel) for notice purposes (it being agreed that if an address is given for a Leasehold Mortgagee's counsel as aforesaid, copies of all notices to be sent to such Leasehold Mortgagee shall also be sent to such counsel), and of the recording reference of its Leasehold Mortgage, and with such notice shall furnish to the Landlord a true copy of its Leasehold Mortgage, Landlord agrees that so long as such Leasehold Mortgage shall remain unsatisfied of record, or until written notice of satisfaction thereof is given by the Leasehold Mortgagee to Landlord (whichever shall first occur) the following provisions shall apply:

(a) Landlord shall, promptly upon receipt of a communication purporting to constitute the notice provided for in the foregoing provisions of this Section 23.2, either provide the Leasehold Mortgagee submitting such communication (and each Qualifying Leasehold Mortgagee then identified to Landlord) with a written confirmation of the receipt of such communication and that the same constitutes the notice provided for in the foregoing provisions of this Section 23.2, or notify Tenant and such Leasehold Mortgagee in writing of the rejection of such communication as not conforming with the foregoing provisions of this Section 23.2 and specifying the basis for such rejection, and such Leasehold Mortgagee shall have an additional period of thirty (30) days from the receipt of Landlord's notice to notify Landlord in conformity with

the foregoing provisions of this Section 23.2. Each Leasehold Mortgagee which notifies Landlord in conformity with the foregoing provisions of this Section 23.2 is referred to in the following provisions of this Section 23.2 as a "Qualifying Leasehold Mortgagee".

(b) In the event of any assignment of a Leasehold Mortgage or in the event of a change of address for notice purposes of a Qualifying Leasehold Mortgagee or of an assignee of any such Qualifying Leasehold Mortgagee, notice of the new name and addresses (including, if it so desires, that of its counsel) for notice purposes shall be provided to Landlord prior to any such assignee being entitled to receive notices under this Lease.

(c) There shall be no cancellation, surrender, termination or modification of this Lease by joint action of Landlord and Tenant, or termination of this Lease by unilateral action of Tenant under the provisions of this Lease permitting such termination by Tenant, without in each case first securing the prior written consent of each Qualifying Leasehold Mortgagee.

(d) Landlord shall, upon giving to Tenant any notice of default or termination of this Lease or any other notices, reports, instructions or the like, simultaneously give a copy of such notice or document to each Qualifying Leasehold Mortgagee, and no notice of default or termination of this Lease given to Tenant shall be legally effective until a copy thereof has been given by Landlord to each Qualifying Leasehold Mortgagee. Wherever in this

Lease notice is to be given to such Qualifying Leasehold Mortgagee, a notice addressed to such Qualifying Leasehold Mortgagee at its address specified in accordance with the foregoing provisions of this Section 23.2 and otherwise complying with the terms of the notice provisions of this Lease shall conclusively be treated as having been "given" within the meaning of the respective provisions calling for notice to each Qualifying Leasehold Mortgagee.

(e) Each Qualifying Leasehold Mortgagee shall have the same period, after such notice has been given to it, for remedying any default or causing the same to be remedied, as is given Tenant after the giving of such notice to Tenant, plus (x) in the case of a default in the payment of the Base Rent or Percentage Rent, an additional period of sixty (60) days, in the case of the first such default during a Lease Year, and in the case of any subsequent such default during the same Lease Year for a period of thirty (30) days, and (y) in the case of any other default, an additional period of sixty (60) days, and if such default cannot with due diligence be cured within such additional sixty (60) day period, an additional time thereafter, provided that such cure is initiated during such additional sixty (60) day period and thereafter the curing of the same is prosecuted with diligence, and Landlord shall accept such performance by a Qualifying Leasehold Mortgagee as if performed by Tenant and shall not during such

period exercise any of Landlord's remedies set forth in Article 18 hereof.

(f) Upon the happening of any of the Events of Default set forth in subsections (d), (e), (f), (g) or (h) of Section 18.2 of this Lease, Landlord shall give notice thereof to each of the Qualifying Leasehold Mortgagees promptly after Landlord shall have knowledge of the happening of such event.

(g) In the case of any Event of Default by Tenant other than under Sections 18.2(a) or (b) Landlord agrees that it will take no action to effect a termination of this Lease or exercise any other remedy by reason of such Event of Default without first giving to each Qualifying Leasehold Mortgagee a reasonable period of time after notice under either (d) or (f) above to institute foreclosure proceedings, to complete such foreclosure or otherwise to acquire the interest of Tenant under this Lease with diligence and without delay and to cure such default in the case of default which can be cured upon completing such foreclosure, and in the case of a default which by its nature is not susceptible of being cured by any Qualifying Leasehold Mortgagee, upon said Qualifying Leasehold Mortgagee acquiring the interest of Tenant by foreclosure as aforesaid said default shall be deemed to have been waived; provided, however, (i) that the period for acquiring the interests of Tenant by foreclosure or otherwise, as the case may be, shall be extended for the period during which such action is enjoined or stayed, (ii) that such Qualifying Leasehold Mortgagee

shall pay or cause to be paid the Base Rent, Percentage Rent and other monetary obligations of Tenant under this Lease as the same become due, and to continue good faith efforts to perform all of Tenant's other obligations under this Lease which are susceptible of being performed by such Qualifying Leasehold Mortgagee, during the period of such forbearance, (iii) that nothing herein shall require any Qualifying Leasehold Mortgagee to begin or continue such foreclosure proceedings or preclude Landlord from exercising (subject to the provisions of this Article 23 including, without limitation, Landlord's obligation to give each such Qualifying Leasehold Mortgagee notice and opportunity to cure any such other default) any rights or remedies under this Lease with respect to any other defaults by Tenant during the period of such forbearance, and (iv) any payment to be made or action to be taken by a Qualifying Leasehold Mortgagee under this clause (g) as a prerequisite to keeping this Lease in effect shall be deemed properly to have been made or taken by said Qualifying Leasehold Mortgagee if such payment is made or action taken by an agent of said Qualifying Leasehold Mortgagee or a nominee which is wholly-controlled by said Qualifying Leasehold Mortgagee.

(h) In the event of a termination of this Lease for any reason, other than by expiration of the term, the Qualifying Leasehold Mortgagee holding the senior leasehold mortgage of the Leased Premises shall have the right, in addition to the foregoing rights

and any other rights available to such Qualifying Leasehold Mortgagee, to elect to demand a new lease of the Leased Premises, exercisable by notice in writing to Landlord within one hundred twenty (120) days after the giving of notice by Landlord to each Qualifying Leasehold Mortgagee of such termination, for the balance of the term hereof effective as of the date of such termination, at the Base Rent and additional rent and upon all of the other terms, provisions, covenants and agreements set forth in this Lease except that Landlord shall not be required to warrant and defend the right of possession of the tenant under such new lease against Tenant herein or anyone claiming by, through or under Tenant; provided, that, concurrently with the delivery of such notice, such Qualifying Leasehold Mortgagee shall have performed and thereafter shall continue to perform all obligations of Tenant hereunder capable of being performed by such Qualifying Leasehold Mortgagee which would have accrued hereunder had this Lease remained in force until the time of such delivery. The parties shall act promptly after such notice and performance to execute such new lease. Any such new lease may, at the option of such Qualifying Leasehold Mortgagee, name as tenant a nominee of such Qualifying Leasehold Mortgagee. If as a result of any such termination Landlord shall succeed to the interest of Tenant under any sublease of the Leased Premises or any portion thereof, and provided the Qualifying Leasehold Mortgagee or said tenant shall have performed all obligations of Tenant hereunder capable of

being performed by such Qualifying Leasehold Mortgagee, Landlord shall simultaneously with the delivery of such new lease execute and deliver an assignment of all such interests to the tenant under the new lease, and pay over to said tenant all security deposits, insurance and eminent domain proceeds and all other funds then held by Landlord in which Tenant had any interest, which funds shall be held or applied by the new tenant in accordance with the provisions of this Lease. Landlord shall not exercise any right to disaffirm, terminate or modify any such sublease unless the period in which such Qualifying Leasehold Mortgagee may elect to demand a new lease of the Leased Premises shall have expired without such Qualifying Leasehold Mortgagee electing such new lease.

(i) Each Qualifying Leasehold Mortgagee shall be given notice of any arbitration or appraisal proceedings under the provisions of this Lease, and shall have the right to intervene therein and be made a party to such proceedings, and the parties hereto do hereby consent to such intervention.

23.3 It is expressly understood that Landlord shall not have the right to approve any Leasehold Mortgagee or the terms and conditions of any Leasehold Mortgage, provided said Leasehold Mortgagee and Leasehold Mortgage satisfy the requirements of Section 32.5 hereof. The rights in this Article 23 provided may be exercised only by such Institutions as are mortgage holders which become Qualifying Leasehold Mortgagees and in the case of

the right to a new lease, shall be given to said Qualifying Leasehold Mortgagees in the order of priority of the respective Leasehold Mortgages held by them. A deed of trust or other form of security deed shall be treated as the equivalent of a mortgage.

23.4 Landlord and Tenant acknowledge and agree that a Qualifying Leasehold Mortgagee may require modifications to this Lease for the purpose of incorporating provisions providing additional protection of its Leasehold Mortgage or otherwise facilitating the "financeability" of this Lease. Landlord agrees not to withhold unreasonably its agreement to enter into such requested modifications provided that, in the sole opinion of Landlord, the same shall in no way affect the term, Base Rent or additional rent or otherwise in any material respect adversely affect any of the rights or interests of Landlord hereunder. Without limitation, before giving any such agreement, Landlord may require reasonable changes to any proposed modification. Landlord and Tenant further acknowledge and agree that the fact that a Qualifying Leasehold Mortgagee is a party to the joint venture constituting the Tenant hereunder, participates in any way in the business of Tenant, or holds any other interest in Tenant or the Leased Premises shall not diminish or otherwise affect its rights and benefits as a Qualifying Leasehold Mortgagee hereunder, including without limitation, its rights to separate notices as provided herein.

ARTICLE 24

OPTION TO PURCHASE

24.1 Landlord hereby grants to Tenant the option to purchase Landlord's interest in the Leased Premises on the Closing Date (as hereinafter defined), for the Purchase Price (as hereinafter defined), exercisable by written notice from Tenant to Landlord given at any time during the period commencing with the beginning of the eighteenth (18th) Lease Year through and including the last day of the twenty-fifth (25th) Lease Year, or during such other period as may be mutually agreed upon by the parties. If the Rule against Perpetuities or any rule of law with respect to restriction on the alienation of property shall limit the time within which the exercise of the within purchase option or the Closing Date, or both, must occur, then such event or such events, as the case may be, to which such result applies, shall occur not later than the expiration of 20 years after the date of the last survivor of Michael A. White, Laurie A. White, Elizabeth E. White (the children of James B. White, all presently of Lincoln, Massachusetts), Alex F. Sirkin, Jacob O. Sirkin (the children of Joel H. Sirkin, all presently of Wayland, Massachusetts), or Patrick S. Daley (the child of Paul P. Daley, presently of Cambridge, Massachusetts).

The "Closing Date" shall be that date designated by Tenant in its exercise of the within purchase option which shall be

not less than 30 days and not more than 120 days after the establishment of the Purchase Price by agreement or arbitration as hereinafter provided. The "Purchase Price" shall be the fair market value of Landlord's interest in the Leased Premises at the time of purchase as determined by agreement of Landlord and Tenant, or in the absence of such agreement, by arbitration in accordance with Section 12.2(c).

If the within purchase option is so exercised, the purchase price shall be paid by a check or checks drawn by a Boston bank or banks on the Federal Reserve Bank of Boston or in such other manner as will make the consideration available in Boston to the Landlord for investment on the Closing Date, and Landlord's interest in the Leased Premises in their then physical condition shall be simultaneously conveyed, at noon on the Closing Date, by a good and sufficient quitclaim deed running to Tenant or such nominee as it shall have designated by at least 30 day's prior written notice to Landlord, delivered at the Suffolk Registry of Deeds or such office, if any, where such deed is to be recorded or filed in order to charge third parties with notice thereof, conveying a good and clear record and marketable title subject only to the following matters affecting the Leased Premises on the Closing Date:

(a) the rights, easements and restrictions set forth or referred to in Exhibit A;

(b) easements and restrictions hereafter affecting the Leased Premises so far as in force and applicable on the Closing Date, voluntarily created by Landlord at any time with Tenant's written approval, and easements and restrictions at any time imposed on the Leased Premises by taking by eminent domain;

(c) unpaid real estate taxes;

(d) balances, if any, remaining due and unpaid on account of betterment assessments on the Leased Premises;

(e) this Lease;

(f) laws and regulations of any governmental authority;

(g) any changes in the Leased Premises which may have occurred as a result of taking by eminent domain;

(h) such state of facts as an accurate survey would show;

(i) easements, agreements and restrictions referred to in the Master Deed and By-Laws of the Condominium; and

(j) the provisions of M.G.L. Chapter 183A and the Master Deed and By-Laws, including the obligation to pay a proportionate share of the Common Expenses of the Condominium.

If Landlord shall be unable to give title or make conveyance as above stipulated, Landlord shall convey such title as it then has provided Tenant elects to accept the same and in such event Tenant shall be entitled to a credit against the purchase price in an amount equal to the diminution, if any, in the fair market value of Landlord's interest in the Leased Premises on

account of matters affecting such title which are not permitted under the foregoing items (a) through (i) inclusive of the paragraph next above, such credit to be in addition to any other applicable credits.

There shall be no closing adjustments, other than for the Base Rent and additional rent payable by Tenant hereunder for the month in which the Closing Date occurs.

It is expressly understood that upon purchase of Landlord's interest in the Leased Premises pursuant to this Article 24 title to the Initial Improvements and the Improvements shall remain in Tenant notwithstanding termination of this Lease or any other provision hereof to the contrary.

ARTICLE 25

HOLDING OVER

25.1 Any holding over by Tenant after expiration of the term shall not constitute a renewal or extension or give Tenant any rights in or to the Leased Premises or the Property except as expressly provided in this Lease.

ARTICLE 26

NOTICES

26.1 Any notice required or desired to be given pursuant to this Lease shall be in writing with copies directed as indicated below and shall be personally served, or, in lieu of personal service, by depositing same in the United States mail, postage prepaid, certified or registered mail, and shall be effective only

upon receipt. If such notice shall be addressed to Landlord, the address of Landlord is:

Boston Redevelopment Authority
1 City Hall Square
Boston, MA 02201

with a duplicate copy to:

Palmer & Dodge
1 Beacon Street
Boston, MA 02108

Attn: James B. White, Esq.

and if addressed to Tenant, the address of Tenant is:

Rowes Wharf Associates
c/o The Beacon Companies
One Post Office Square
Boston, MA 02109

Attn: Edwin N. Sidman

with duplicate copies to:

The Equitable Life Assurance Society of
the United State
c/o Equitable Real Estate Investment
Management, Inc.
Monarch Plaza Office Building
3414 Peachtree Road, N.E.
Atlanta, GA 30326

and

Myrna Putziger, P.C.
McCormack & Putziger
225 Franklin Street
Boston, MA 02109

and if addressed to The Equitable Life Assurance Society of the United States, the address of said entity is:

c/o Equitable Real Estate Investment
Management, Inc.
Monarch Plaza Office Building
3414 Peachtree Road, N.E.
Atlanta, GA 30326

Attention: President

with duplicate copies to:

Nutter, McClennen & Fish
Federal Reserve Plaza
600 Atlantic Avenue
Boston, Massachusetts 02210

Attention: J. Grant Monahan, Esq.

and

The Equitable Life Assurance Society of
the United States
1285 Avenue of the Americas
New York, NY 10019

Attention: Law Department

Either Landlord or Tenant may change its respective addresses by giving written notice to the other in accordance with the provisions of this paragraph.

Any requests for approvals made by Tenant to Landlord where such approvals shall be deemed granted after a period of non-reply by Landlord shall, as a condition to the effectiveness thereof, be prefaced with the following language printed in capital letters in bold face type:

"NOTICE
THIS REQUEST FOR APPROVAL REQUIRES IMMEDIATE REPLY
FAILURE TO RESPOND WITHIN _____ DAYS
SHALL RESULT IN AUTOMATIC APPROVAL"

ARTICLE 27

QUIET ENJOYMENT; ENCROACHMENTS AND VAULTS; LIMITATION OF LIABILITY

27.1 Landlord covenants that Tenant, upon paying the Base Rent, additional rent and all other charges herein provided for, and observing and keeping the covenants, agreements and conditions of this Lease on its part to be kept, shall lawfully and quietly hold, occupy and enjoy the Leased Premises, including all rights appurtenant thereto as described in Exhibit A, during the term of this Lease, without hindrance or molestation of Landlord, or any person or persons claiming under or through Landlord, subject to the Permitted Exceptions and any other matters expressly hereinabove set forth; provided, however, that this covenant shall not extend to any encroachments of the Improvements on premises other than the Leased Premises, including, but not limited to, the encroachment of any present or future building, wall or structure, either on the Leased Premises or on any property adjacent thereto, and Landlord shall not be liable for any such encroachments, but Tenant agrees to indemnify and save harmless Landlord during the term of this Lease from and against any and all liability, penalty, damages, expense and judgment, whatsoever, on account of the location of any future (but not present) building, wall, structure or other encroachment on or partly on the Leased Premises, or on or partly on any property adjacent thereto.

Neither Landlord nor Tenant nor, if Tenant is a partnership or joint venture or consists of the trustees of a trust, any

general or limited partner of, or joint venturer with, or trustee or beneficiary of, Tenant shall be personally liable for any of their respective obligations hereunder, and in the event of a claim by either party (the "claimant") against the other (the "obligor"), the claimant shall look solely to said interest of the obligor in the Leased Premises and not to any of its other assets for satisfaction of such claim. It is further understood that if Tenant is a partnership or joint venture and any partner of said partnership or joint venture within said joint venture is itself a partnership (herein, "Second Tier Partnership"), the limitation of liability set forth in the preceding sentence shall apply to the partners of said Second Tier Partnership.

Landlord named herein, and its respective successors in title to Landlord's interest under this Lease, shall be liable only for breaches occurring during its or their respective periods of ownership of such Landlord's interest hereunder, and Landlord shall never be liable to Tenant for consequential damages arising out of defaults by Landlord hereunder except for those consequential damages reasonably foreseeable by Landlord on the basis of facts actually known to it at the time of any such default by Landlord. Upon any such default by Landlord, Tenant shall, within thirty (30) days after receipt of a written notice from Landlord expressly requesting that Tenant designate all

reasonably foreseeable damages arising out of such default, designate the same and all consequential damages not so designated shall not for the purposes of this paragraph be considered "reasonably foreseeable by Landlord".

ARTICLE 28

ESTOPPEL CERTIFICATE

28.1 Tenant and Landlord agree at any time and from time to time, upon not less than ten (10) days' prior written notice by the one of them or any Qualifying Leasehold Mortgagee requesting the same, to execute, acknowledge and deliver to the other party or any Qualifying Leasehold Mortgagee a statement in writing, certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified, and stating the modifications), and the dates to which the Base Rent, additional rent and other charges have been paid in advance, and stating whether or not, to the best knowledge of the party executing such statement, there are defaults or Events of Default under this Lease, and, if so, specifying each such default, it being intended that any such statement delivered pursuant to this Article may be relied upon by any prospective purchaser or assignee of the fee or leasehold or any Leasehold Mortgagee or assignee of any Leasehold Mortgagee or any subtenant of Tenant.

ARTICLE 29

REMEDIES CUMULATIVE

29.1 The specified remedies to which Landlord or Tenant may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Landlord or Tenant may be lawfully entitled in case of any breach or threatened breach by Landlord or Tenant, as the case may be, of any provision of this Lease. The failure of Landlord or Tenant to insist in any one or more cases upon the strict performance of any of the covenants of this Lease, or to exercise any option herein contained, shall not be construed as a waiver or a relinquishment for the future of such covenant or option.

29.2 A receipt by Landlord of rents, with knowledge of the breach of any covenant hereof, shall not be a waiver of such breach, and no waiver by Landlord of any provision of this Lease shall be effective unless in writing and signed by Landlord. Acceptance by Landlord (including, without limitation, of any draft remitting the same) of payments in amounts less than due Landlord shall be treated as payments on account to the extent thereof, notwithstanding any statement or endorsement on or accompanying the same; and the acceptance of payment by Landlord from any person other than Tenant on account of Tenant's obligations shall not be treated as a waiver by Landlord of any right

Landlord may have on account of an improper transfer of Tenant's interest under this Lease.

29.3 In addition to the other remedies in this Lease provided, Landlord and Tenant shall be entitled to restraint of the other, as the case may be, by injunction of the violation, or attempted or threatened violation, of any of the covenants, conditions and provisions of this Lease.

ARTICLE 30

SURRENDER NOT A MERGER

30.1 The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger and shall, at the option of Landlord, operate as an assignment to Landlord of any and/or all subleases of subtenants.

ARTICLE 31

ATTORNEYS' FEES AND OTHER COSTS

31.1 In the event either party shall bring any action or legal proceeding for damages for an alleged breach of any provision of this Lease, or to enforce, protect, determine or establish any term or covenant of this Lease or right of such party, or in the case of Landlord to recover rent or to terminate the tenancy of the Leased Premises, the prevailing party shall be entitled to recover from the other party as a part of such action or proceedings, or in a separate action brought for that purpose, reasonable attorneys' fees and court costs.

31.2 It is anticipated that, from time to time during the term of this Lease, Landlord shall require the advice of counsel or other professional consultants in the examination of requests submitted by Tenant, review and approval of documentation required from time to time to be provided by Tenant to Landlord under this Lease, and otherwise in the review of the exercise by Tenant of any of its rights hereunder.

Accordingly, without limiting Landlord's right to recover the reasonable fees and expenses of counsel incident to enforcing its obligations on default or breach of condition by Tenant, Tenant agrees to pay to Landlord reasonable fees and expenses of counsel and other professional consultants (but only to the extent not on the full time payroll of Landlord) incurred by Landlord on account of services rendered after the date hereof incident to disposition of requests made by Tenant under this Lease, including, without limitation, review and preparation of documentation required incident thereto, or in services rendered to Landlord incident to the exercise by Tenant of its rights hereunder which requires review or preparation of documentation, such as review and preparation of documentation in compliance with Tenant's request that Landlord enter into an agreement with a Leasehold Mortgagee of the type referred to in Article 23 hereof, all to the end that the rent paid by Tenant shall be absolutely net to Landlord; and Landlord shall have the right to treat any such fees as additional rent, for the recovery of which Landlord shall have all the remedies

provided herein; but excluding from the operation of the foregoing provisions of this paragraph all such fees and expenses incurred incident to Landlord's consideration of submissions or requests for approval, consent or the like where, under the terms of this Lease, such submission, consent, approval or the like is required as a condition to an act by Tenant.

ARTICLE 32

DEFINITIONS

32.1 Terms defined elsewhere in this Lease or in the Master Deed or By-Laws of the Condominium shall have the meanings ascribed to them. In addition, the terms defined below shall have the meanings ascribed to them wherever such terms shall appear in the Lease, unless the context otherwise requires.

32.2 The term "person" shall include an individual, corporation, partnership, unincorporated organization or government, or any agency or political subdivision thereof and any other entity, whether or not incorporated.

32.3 The terms "rent" or "rents" shall mean the Base Rent monthly reserved, Percentage Rent and all amounts specified in this Lease as additional rent.

32.4 The term "Institution" shall mean any of the following:

(a) A (i) bank (which term shall include a wholly-owned subsidiary or a sister corporation of a bank), (ii) insurance company, (iii) savings and loan association, (iv) trust company (which term shall include a wholly-owned subsidiary or a

sister corporation of an insurance company), or (v) a corporation, trust or association qualifying as a real estate investment trust under the provisions of Section 856 of the Internal Revenue Code, as amended (or like future provisions of such Code), provided as to any entity included in (i) through (v) above it is chartered under the laws of The United States of America or any state thereof, and has a principal place of business in one of such states and a combined capital and surplus account (or, in the case of a mutual company, the equivalent thereof) of not less than \$300,000,000. Such capital and surplus account of \$300,000,000 shall be applied to the aggregate of such accounts of participating entities in a single loan transaction, and for the purpose of this provision the capital and surplus accounts of a wholly-owned subsidiary or a sister corporation of a bank or insurance company shall be deemed to include the capital and surplus accounts of the parent or sister banks or insurance company.

(b) an educational institution with a capital endowment of not less than \$300,000,000.

(c) a pension fund established by and for any domestic or foreign business corporation or corporations, or by and for any group of employees of a governmental body or bodies or of a religious or educational institution or institutions or for any trade union, and, in each such case, having a net

worth, determined in accordance with standards applicable to such institutions in the financial industry, of not less than \$300,000,000.

32.5 The term "Leasehold Mortgage" shall mean any mortgage of Tenant's entire interest in the Leased Premises granted to an Institution. The term "Leasehold Mortgagee" shall mean the holder of any Leasehold Mortgage. In the event there shall exist at any time or times more than one Leasehold Mortgage, the terms "Leasehold Mortgage" and "Leasehold Mortgagee" where used herein shall, unless expressly provided otherwise, be deemed to refer and apply to all said Leasehold Mortgages and Leasehold Mortgagees.

32.6 The expression "movable trade fixtures, machinery and equipment", or words of similar import, shall include all furnishings, chattels, personal property and equipment, and all additions, replacements or articles in substitution thereof, of every kind and description which are not now or hereafter affixed and attached to the Leased Premises or Improvements and which are not used, or procured for use, in connection with the operation of the Improvements, and which are owned by others than Tenant, and all furnishings, chattels, personal property and equipment and all additions, replacements or articles in substitution thereof, of every kind and description which are owned by occupants of space in the Leased Premises, whether or not so affixed and attached, so

long as the same are readily removable without material damage or injury to the Improvements.

32.7 The term "Plan" shall mean the Downtown Waterfront-Faneuil Hall Urban Renewal Plan as in effect on the date hereof.

32.8 The term "Architect" shall mean only the architectural firm of Skidmore, Owings & Merrill, or such substitute therefor as shall be designated by Tenant.

32.9 Any reference to the "termination of this Lease" shall be deemed to include any termination hereof by expiration, default or otherwise.

32.10 The term "Depository" shall mean the first Leasehold Mortgagee, or if the first Leasehold Mortgagee shall elect not to act as Depository, said term shall refer to a bank or trust company chartered under the laws of the United States of America or the Commonwealth of Massachusetts with a combined capital and surplus account of not less than \$50,000,000, which shall be selected by the mutual agreement of Landlord and Tenant and, in accordance with such terms as the parties may agree and upon provision for indemnity suitable to it, shall agree to act as depository of funds for the purposes provided in this Lease. The Depository shall be under no obligation to cash or collect interest coupons on any securities deposited hereunder issued in coupon form, but shall hold such coupons subject to the order of Tenant and the provisions of this Lease under which such securities were deposited. Cash deposited with the Depository shall be invested

by the Depository in U.S. Treasury bills or notes or such other form of investment as shall be mutually acceptable to Landlord and Tenant and all amounts earned thereon shall be considered part of, and devoted to the purpose of, the deposit, with any balance remaining after such purpose has been satisfied to be paid to Tenant.

32.11 The term "Total Project Costs" shall mean

(a) the product of the Financing Percentage of the Office/Retail Unit multiplied by all certified costs incurred in competing for designation as redeveloper and in the construction and development of the Initial Improvements (as said term is defined in the Ground Lease) and Common Elements, and off-site improvements relating to or installed in connection with the Initial Improvements including without limitation,

(i) amounts paid to contractors under construction contracts relating to the Initial Improvements and Common Elements, and said off-site improvements,

(ii) amounts paid to the Architect and to architectural and engineering consultants,

(iii) amounts paid for borings, surveys, tests, historical and environmental investigations,

(iv) costs of insurance during construction, including builders risk, public liability and workmen's compensation,

(v) costs of relocation of existing structures and facilities necessitated by construction and all other costs of site preparation,

(vi) Base Rent, Impositions and interest paid during the term of the Ground Lease,

(vii) costs of fees, permits and licenses in respect of the Initial Improvements and Common Elements,

(viii) a developer's fee of \$5,000,000.00,

(ix) costs of legal, accounting, planning, appraisal and other consulting services, placement fees, recording fees, title insurance premiums and charges and other costs and charges incurred in connection with the acquisition of the leasehold interest created by the Ground Lease and the construction, financing and development of said Initial Improvements and Common Elements and said off-site improvements,

(x) the following fees payable to Equitable:

(1) an appraisal fee of \$40,000; (2) a plans and specifications review fee of \$52,000; (3) an inspection fee of \$36,000; (4) a supervisory fee of \$322,000; and (5) a commitment fee of \$500,000, and

(xi) expenditures for works of art pursuant to Section ___ of the Ground Lease, to the extent not included in the Initial Improvements or Common Elements,

plus

(b) all certified costs incurred in the construction and development of the Improvements and the Office/Retail Unit (in contrast to, and excluding, said costs incurred in connection with the Initial Improvements and Common Elements generally and allocated to the Office/Retail Unit pursuant to paragraph (a) above), including, without limitation,

(i) amounts paid to contractors under construction contracts relating to the Improvements and Office/Retail Unit,

(ii) the total amount of all "linkage payments" relating to the Office/Retail Unit made by Tenant to the City of Boston under that certain agreement entitled Development Impact Project Agreement dated June 21, 1984, said total to be increased annually as each such payment is made,

(iii) Base Rent, Impositions and interest paid during the term of this Lease up to the date on which a certificate of occupancy in respect of the Office/Retail Unit authorizing occupancy by the first Occupancy Tenant is issued,

(iv) all fees and brokerage commissions payable in connection with the initial occupancy leases, including a leasing fee in the amount of \$990,000.00 payable to Pemberton Management Company,

(v) advertising and promotional fees and expenses relating to the Office/Retail Unit, and

(vi) such amounts as Tenant shall justify to Landlord's reasonable satisfaction as having been incurred by Tenant on account of Operating Losses of the Leased Premises, as hereinafter defined, but not in excess of the amount thereof incurred during the period ending 36 months after the issuance of a certificate of occupancy in respect of the Office/Retail Unit authorizing occupancy by the first occupancy tenant.

Costs shall be deemed "certified" for the purposes of this Section if included in a certificate executed by a general partner of RWLP, including supplementary certificates with respect to linkage payments made subsequent to the initial certificate executed by said general partner.

The term "Operating Losses of the Leased Premises" shall mean the amount by which the total of

(i) Allowed Deductions for any Lease Year
(exclusive of Stipulated Debt Service), plus

(ii) interest and principal payable by Tenant
in respect of the Financing for said Lease Year, plus

(iii) lease takeover expenses and other
occupancy tenant inducement costs,
exceeds Gross Revenues during such Lease Year.

32.12 The term "Ground Lease" shall mean that certain Ground Lease of even date from Landlord to Tenant of the Land.

32.13 The terms "Interior Completion Work" and "Contract Documents" shall have the meanings ascribed to them in the Ground Lease.

ARTICLE 33

NON-DISCRIMINATION; EMPLOYMENT; NO CONFLICTS

33.1 Tenant, for itself and all successors and assigns, agrees that in the redevelopment of the Leased Premises and in all construction activity undertaken with respect thereto:

(a) Tenant will not discriminate against any employee, or applicant for employment because of race, color, sex, religion, age, or national origin. Tenant will take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Tenant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(b) Tenant will, in all solicitations or advertisements for employees placed by or on behalf of Tenant, state all qualified

applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin.

(c) Tenant will send to each labor union or representative of workers with which Tenant has a collective bargaining agreement or other contract or understanding, a notice, to be provided advising the said labor union or workers' representative of Tenant's commitments under Section 202 of Executive Order #11246 of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) Tenant will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) Tenant will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor, pursuant thereto, and will permit access to Tenant's books, records, and accounts by Landlord, the Secretary of Housing and Urban Development, and the Secretary of Labor, for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(f) In the event of Tenant's noncompliance with the non-discrimination clauses of this Section 33.1, or with any of the

said rules, regulations, or orders, upon written notice to Tenant, and the continuance of such noncompliance for sixty (60) days thereafter, Tenant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246, of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967 and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246, of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, or by rule, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.

(g) Tenant will include the provisions of paragraph (a) through (f) of this Section 33.1 in every contract or purchase order, and will require the inclusion of these provisions in every subcontract entered into by any of its contractors, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11735 of October 13, 1967, so that such provisions will be binding upon each such contractor, subcontractor, or vendor as the case may be. Tenant will take such action with respect to any construction contract, subcontract, or purchase order as Landlord directs as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event Tenant becomes involved in or is threatened with, litigation with a subcontractor

or vendor as a result of such direction by Landlord, Tenant may request the United States to enter into such litigation to protect the interest of the United States.

33.2 Tenant, for itself and all successors and assigns, further agrees that in the construction of the Improvements and in all construction activity undertaken with respect thereto, it shall pursue the efforts hereinafter described to employ workers in construction so that the worker hours on a craft-by-craft basis shall be performed as follows, to the extent permitted by law:

- (a) at least 50% by bona fide City of Boston residents;
- (b) at least 25% by minorities;
- (c) at least 10% by women.

For the purposes of this Section 33.2, worker hours shall include work performed by persons filling apprenticeship and on-the-job training positions. Such efforts shall consist of the following:

(a) Tenant shall incorporate in every general construction contract or construction management agreement an enumeration of the foregoing worker hour goals and shall impose a responsibility upon any such general contractor or construction manager (i) to pursue the efforts enumerated in this Section 33.2 and (ii) to incorporate such worker hour goals in all subcontracts and impose upon all subcontractors the obligation to pursue such efforts.

(b) Each Tenant, its contractor, and each subcontractor shall designate an individual to serve as affirmative action

officer for the purpose of carrying out the efforts to achieve worker hour goals set forth herein.

(c) Contemporaneously with the start of construction, the affirmative action officers and other interested representatives of Tenant, its Contractor and each subcontractor then selected shall hold a pre-job conference with appropriate union representatives of the construction trade unions for the purpose of reviewing the above worker hour goals and the manning requirements for construction activity over the life of the construction period.

(d) Each request for qualified construction workers made by any person involved in the construction of the Improvements to a union hiring hall or business agent shall contain a recitation of such worker hour goals and a request that qualified referees for construction positions be selected in the same proportion as such goals; provided, however, that if at the time of any such manning request the requesting party's workforce composition falls short of any one or more of such goals, such manning request shall seek qualified referees in such proportion among such categories as would be necessary to more fully achieve such goals. In the event that the union hiring hall or business agent to which or whom such a manning request has been submitted fails to comply with such request, the affirmative action officer of such requesting party shall seek to verify that insufficient workers in the categories specified in such request are then shown on the unemployed list

maintained by such union hiring hall or business agent by seeking to obtain an affidavit from the union hiring hall representative or business agent to such effect. Copies of any affidavit so obtained shall be forwarded to Landlord' affirmative action officer.

(e) All persons applying directly to the Contractor or any subcontractor for employment in construction on the project who are not employed by the party to whom application is made will be referred to Landlord's affirmative action officer and a written record of such referral shall be made, a copy of which shall be sent to such officer.

Tenant, its contractors, and each subcontractor shall maintain records reasonably necessary to ascertain compliance with the requirements of this Section 33.2 for at least one year after the issuance of a Certificate of Occupancy for the first premises to be occupied by a tenant under an occupancy lease.

33.3 No member of the Congress of The United States of America shall be admitted to any share or part thereof, or to any benefit to arise from this Lease. No member, official, or employee of Landlord shall have any personal interest, direct or indirect, in this Lease, nor shall any such member, official or employee participate in any decision relating to this Lease which affects his personal interest or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. Status as (i) a beneficiary of or insured under

an insurance policy issued by a life insurance company which has an interest in Tenant or the Leased Premises or (ii) a holder of an interest in an employee benefit plan administered by such insurance company, shall not constitute a "personal interest, direct or indirect," for the purposes of this Section.

33.4 No member, official or employee of Landlord shall be personally liable to Tenant in the event of any default or breach by Landlord or for any amount which may become due to Tenant or on any obligations under the terms of this Lease.

33.5 Notwithstanding anything in Article 18 or elsewhere in this Lease to the contrary, in the event Tenant shall default in any of its obligations under this Article 33 which by its nature is not susceptible of being cured by Tenant, and provided Tenant shall have taken such specific remedial action in respect of such default directed at redressing the particular grievance which gave rise to the default as may have been ordered by any court or agency having jurisdiction over the same, then Landlord's sole remedy for such default shall be injunctive relief, it being understood that, without limitation, Landlord shall have no right to terminate this Lease on account of such default.

ARTICLE 34

GENERAL

34.1 The captions used in this Lease are for the purpose of convenience only and shall not be construed to define, limit or extend the meaning of any part of this Lease.

34.2 Any executed copy of this Lease shall be deemed an original for all purposes.

34.3 Time is of the essence for the performance of each covenant and term of this Lease.

34.4 In case any one or more of the provisions contained herein, except for the payment of rent, shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Lease, but this Lease shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein. This Lease shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts.

34.5 The language in all parts of this Lease shall in all cases be construed as a whole according to its fair meaning, and not strictly for or against either Landlord or Tenant. When the context of this Lease requires, the neuter gender includes the masculine, the feminine, a partnership or corporation or joint venture, and the singular includes the plural.

34.6 Each term and provision of this Lease performable by Tenant shall be construed to be both a covenant and a condition,

conferring upon Landlord, in the event of breach of any such term or condition, the right to terminate this Lease in accordance with and subject to the provisions of Article 18.

34.7 The covenants and agreements contained in this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, and assigns (to the extent this Lease is assignable under the terms hereof). Landlord and Tenant each warrant and represent to the other that corporate or other action has been taken by the warranting party to authorize the execution and delivery of this Lease and that this Lease is valid and binding upon it in accordance with its terms.

34.8 The waiver by Landlord or Tenant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or of any other term, covenant or condition herein contained.

34.9 Each party hereto agrees to act reasonably and in good faith with respect to the performance and fulfillment of the terms of each and every covenant and condition contained in this Lease, and with respect to the exercise of each and every right reserved herein, and wherever in this Lease the consent, approval or exercise of judgment or discretion of either party is required or requested, such consent or approval shall not be withheld or delayed unreasonably and such judgment or discretion shall not be exercised arbitrarily, but shall be exercised reasonably and promptly;

provided, however, that, this Section shall not apply to the exercise of Landlord's rights under provisions of this Lease relating to its approval of matters involving signs and design and appearance of the Leased Premises and the Improvements, as to all of which Landlord's approvals shall be given or withheld in its sole discretion. The proviso in the preceding sentence shall only be applicable, however, during the Boston Redevelopment Authority's ownership (or ownership by a successor governmental agency having urban planning responsibility) of the Leased Premises, but in no event shall this limitation be construed in any case as a contractual limitation on the exercise by the Boston Redevelopment Authority (or such successor agency) of the regulatory powers conferred upon the Boston Redevelopment Authority (or such successor agency) by any provision of general or special law now in effect or hereafter enacted.

34.10 Where interest is provided to be paid hereunder, the rate therefor, on an annualized basis, shall be computed quarterly at the base rate (or its reasonable equivalent) from time to time charged by The First National Bank of Boston, but in no event more than the highest amount, if any, which would not violate applicable usury prohibitions.

34.11 It is expressly understood that notwithstanding any transfer of Landlord's interest hereunder to a third party, all approvals to be given by Landlord pursuant to the provisions of

this Lease shall continue to be made by the original Landlord named herein, unless Tenant shall otherwise agree in writing.

34.12 It is hereby mutually agreed between Landlord and Tenant that Landlord shall not, as the result of any rights granted herein to Landlord, be deemed or considered as co-owner, co-partner or co-venturer with Tenant in or with respect to the Leased Premises or the Improvements or with respect to any obligation of Tenant under any sublease or any other contract, agreement or obligation in respect of the Leased Premises or the Improvements.

34.13 In any case where Tenant is required to do any work or other act hereunder delays due to causes beyond Tenant's control and without its fault or negligence (herein, "Force Majeure Delay"), including but not restricted to, acts of God, or of the public enemy, acts and restrictions of government, acts of Landlord constituting breaches of its covenants or obligations hereunder, fires, floods, epidemics, quarantine restrictions, strikes and other labor difficulties, general unavailability of labor or materials, freight embargoes, and unusually severe weather or delays of subcontractors and suppliers due to such causes shall not be counted in determining the time during which such work or other act shall be completed whether such time be designated by a fixed date, a fixed time or "a reasonable time", and such time shall be deemed extended by the period of such delay. It is expressly understood that financial inability to proceed shall never

be treated as a cause beyond Tenant's reasonable control. Tenant shall give Landlord written notice of any Force Majeure Delay within ten (10) business days after the beginning of each such delay setting forth the cause or causes thereof, and there shall be excluded in computing the duration of any Force Majeure Delay the period from the date of beginning of such delay to the date Tenant gives Landlord notice thereof, unless such notice is given within the aforesaid ten (10) business day period.

ARTICLE 35

AGREEMENTS WITH RESPECT TO PENSION OR PROFIT SHARING PLANS

35.1 Landlord covenants and warrants:

(a) that it is not, and without the written consent of Equitable will not become a "party in interest" (within the meaning of Section 3(14) of the Employee Retirement Income Security Act of 1974, as now or hereafter amended) ("ERISA") to any pension or profit sharing plan which at any time has assets allocated to Equitable's Separate Account No. 8, unless an exemption exists which results in Section 406 of ERISA not being violated;

(b) that, if an exemption is claimed, Landlord will provide such information as Equitable may require in order to determine if such exemption is in fact available; and

(c) that it will not sell, convey or transfer the Leased Premises to any person or entity which could not satisfy the undertaking of subclause (a) above;

regardless of whether any of the above described conditions arises by operation of law or otherwise. The consent by Landlord to the transfer or assignment by Tenant of its interest under this Lease shall not be considered a sale, transfer or conveyance of the Leased Premises under clause (c) above.

35.2 If requested to do so by Tenant in writing, Landlord shall deliver to Equitable at least 20 days prior to the later of the closing of any transfer or receipt of Tenant's request, a statement by the proposed transferee or assignee that it is not a "party in interest" or if it is, that an exemption exists which results in Section 406 of ERISA not being violated, together with such information as Equitable may require in order to determine if said exemption is in fact available. If Equitable determines that such exemption is not available, such sale, conveyance or transfer shall not take place until an exemption is obtained, as contemplated in Section 35.4 below.

35.3 If Equitable shall notify Landlord of the names of any such plan and request verification that Landlord is in compliance with the requirements of Section 35.1 hereof, Landlord shall furnish to Equitable in writing such verification within thirty (30) days following the date of such notice or shall advise in what manner it is not in compliance. If at any time Landlord becomes aware of a failure to comply with its obligations under Section 35.1 above, it shall promptly so advise Equitable in writing.

35.4 In the event that a "prohibited transaction" under Section 406 of ERISA occurs during the term of this Lease, or would exist after a sale, conveyance or transfer, for which a statutory or class exemption is not available, Landlord and Tenant shall jointly apply to the Department of Labor, or successor thereto, for an administrative exemption under Section 408(a) of ERISA. All costs incurred by Landlord and Tenant in seeking an exemption shall be borne by Tenant.

ARTICLE 36

INTEGRATION

36.1 This Lease, and the Exhibits and addenda, if any, attached hereto, constitute the entire agreement between the parties, and there are no agreements or representations between the parties except as expressed herein. No subsequent change or addition to this Lease shall be binding unless in writing and signed by the parties hereto.

In Witness Whereof, the parties hereto have executed this
Lease on the respective dates below set forth, under seal.

LANDLORD: BOSTON REDEVELOPMENT AUTHORITY

Dated:

By _____
Its Director, _____

TENANT: ROWES WHARF ASSOCIATES

By: ROWES WHARF LIMITED PARTNERSHIP

Dated:

By _____
General Partner

By: THE EQUITABLE LIFE ASSURANCE
SOCIETY OF THE UNITED STATES

By _____
Its

PROJECT COORDINATION AGREEMENT

AGREEMENT made this _____ day of July, 1985 by and among Rowes Wharf Limited Partnership, a Massachusetts limited partnership having a principal place of business at One Post Office Square, Boston, Massachusetts ("Rowes Wharf"), Atlantic Avenue Limited Partnership, a Massachusetts limited partnership having a principal place of business at 400 Atlantic Avenue, Boston, Massachusetts ("Atlantic"), and the Boston Redevelopment Authority, a body politic and corporate organized pursuant to the provisions of Chapter 652 of the Acts of 1960, as amended (the "BRA").

P R E L I M I N A R Y S T A T E M E N T

Atlantic is the owner of the land with the building thereon situated at 400 Atlantic Avenue in Boston, Suffolk County, Massachusetts (the "400 Premises"). Rowes Wharf is the designated redeveloper of a parcel of land owned by the BRA consisting of Rowes Wharf and Fosters Wharf (the "Rowes Wharf Premises") upon which Rowes Wharf intends to construct a multi-building, mixed-use development (the "Project"). The Rowes Wharf Premises lie to the immediate north of the 400 Premises. Atlantic is the beneficiary of certain rights and easements in a certain portion of the Rowes Wharf Premises described as Parcel B

in, and created by, the Cooperation Agreement, as hereinafter defined. The parties hereto desire to confirm certain of their agreements with respect to the 400 Premises, the Rows Wharf Premises, the integration of certain maritime uses on both such premises, and the confirmation of the various rights and obligations of the parties.

This agreement is made with respect to and in consideration of the following documents:

A. Cooperation Agreement dated as of March 1, 1982 by and between the BRA and Bain & Company recorded with Suffolk Registry of Deeds at Book 9954, Page 42 (the "Cooperation Agreement");

B. Quitclaim Deed dated December 1982 from the BRA to Atlantic recorded with said Deeds at Book 10242, Page 300 (the "Deed");

C. Waterways License No. 1181 dated February 11, 1985 issued by the Department of Environmental Quality Engineering ("DEQE") to Rows Wharf, said license recorded with Suffolk Registry of Deeds at Book 11477, Page 211 (the "Waterways License");

D. Memorandum of Understanding dated February 11, 1985 by and among Rows Wharf, the BRA, and DEQE (the "Memorandum of Understanding") referred to in the Waterways License; and

E. Documents entitled "Rows Wharf Cooperation Agreement" to be entered into by and among Rows Wharf, the BRA, and the Boston

Water and Sewer Commission, including the Grant of Easements to be recorded with Suffolk Registry of Deeds annexed to said Rowes Wharf Cooperation Agreement as Exhibit A (the "BWSC Cooperation Agreement").

In consideration of One Dollar (\$1.00) and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Atlantic hereby consents to such of the terms and provisions of the BWSC Cooperation Agreement as relate to the grant of permanent easements in and over the portion of the Rowes Wharf Premises constituting Parcel B as described in the Cooperation Agreement ("Parcel B") and further agrees to execute such further documents as may be required to confirm such consent, to subordinate the rights of Atlantic pursuant to the Cooperation Agreement and Deed in said Parcel B to the rights to be granted to the Boston Water and Sewer Commission pursuant to the BWSC Cooperation Agreement and Grant of Easements annexed thereto, and to use reasonable efforts to cause any holders of mortgages on the 400 Premises to join in such subordination. All such further documentation shall be subject to the reasonable approval of counsel to Atlantic and any such holders.

2. (a) Atlantic holds portions of the Atlantic Premises subject to a reserved easement for public marine and

pedestrian use as more particularly set forth in the Cooperation Agreement. Rowes Wharf is obligated pursuant to the Waterways License to dedicate substantial portions of the Rowes Wharf Premises, including the portion of the Rowes Wharf Premises constituting Parcel B, to public pedestrian and marine use, including the continuation of commercial maritime service, as defined in the Waterways License, from the Rowes Wharf Premises during the period of construction of the Project and after completion thereof. In connection therewith:

(i) Atlantic hereby consents to the replacement by Rowes Wharf of the Site Improvements constructed by Atlantic in Parcel B in accordance with the Cooperation Agreement with substitute improvements substantially as shown on the plans annexed hereto as Exhibit 1 (the "New Site Improvements"). Rowes Wharf shall provide copies of all changes in the design of the New Site Improvements to Atlantic;

(ii) Rowes Wharf agrees at its own cost and expense to reconstruct and complete the New Site Improvements on Parcel B. Rowes Wharf assumes the obligation to obtain all necessary governmental approvals for such construction, including without limitation, any approvals required from the Department of Environmental Quality Engineering and the Boston Conservation Commission. Rowes Wharf shall be solely responsible for

compliance with Waterways License No. 954 and Boston Conservation Commission Order of Conditions No. 6-221, in performing said construction. Rowes Wharf agrees to indemnify Atlantic and hold Atlantic harmless from all liabilities and costs (including reasonable attorneys' fees) in connection with the construction or reconstruction by Rowes Wharf of such New Site Improvements on Parcel B. In connection with construction by Rowes Wharf of temporary or permanent structures in Parcel B as part of such New Site Improvements, Rowes Wharf may utilize, or alter and utilize piles and other structural elements placed in Parcel B by Atlantic pursuant to the Cooperation Agreement and Deed to support such new Site Improvements and Atlantic hereby grants to Rowes Wharf a permanent easement therefor, provided, however, that any such alteration or utilization shall not impair the structural integrity of the 400 Premises. Atlantic shall use reasonable efforts to cause any holders of mortgages on the 400 Premises to subordinate the lien of any such mortgages to the easement granted in this paragraph 2(a)(ii). Rowes Wharf shall furnish to Atlantic, at the sole cost and expense of Rowes Wharf, a certification to Atlantic from a structural engineer satisfactory to Atlantic certifying that the design of the New Site Improvements does not impair the structural integrity of the 400 Premises.

(iii) Rows Wharf agrees to assume and perform all of Atlantic's obligations with respect to Parcel B as described in Sections 4, 5, and 6 of the Cooperation Agreement provided, however, that Atlantic reserves the right for itself and its tenants to have service, maintenance, and repair and other access to the 400 Premises over Parcel B. Rows Wharf agrees to indemnify Atlantic and hold Atlantic harmless from any and all liability and cost (including reasonable attorneys' fees) incurred by Atlantic as a result of any failure by Rows Wharf to perform such obligations.

(iv) Rows Wharf shall maintain at its own sole cost and expense Parcel B in a clean, safe and orderly manner, and shall be solely responsible for all maintenance, security and other services reasonably required to keep Parcel B in good, safe and attractive condition and repair. No accumulation of litter, trash, debris or other disposable material will be permitted on Parcel B. Rows Wharf shall bear the cost of lighting Parcel B and of watering plants in Parcel B.

(v) Atlantic hereby acknowledges that Rows Wharf intends to place signage in or over Parcel B identifying the hotel and restaurant facilities of the Project and the commercial maritime terminal. No signage shall be installed by Rows Wharf anywhere on Parcel B without the prior written approval of the

BRA and of Atlantic, Atlantic hereby agreeing that its consent will not be unreasonably withheld or delayed. No public address system or sound amplifier shall be used to attract business, direct passengers, or for any other purpose, on Parcel B.

(vi) The BRA hereby consents to the terms of this Project Coordination Agreement and acknowledges that Rowes Wharf has assumed all of Atlantic's obligations under Sections 4, 5, and 6 of the Cooperation Agreement with respect to Parcel B as described therein; and the BRA hereby releases Atlantic from such obligations. Notwithstanding the assumption by Rowes Wharf of the foregoing obligations of Atlantic under the Cooperation Agreement, Rowes Wharf shall not be construed to be the assignee of all or any portion of the Cooperation Agreement and the BRA agrees that the Cooperation Agreement shall not be amended without the consent of Atlantic.

(b) Notwithstanding the provisions of Section 3 of the Cooperation Agreement, Atlantic hereby agrees with the BRA and Rowes Wharf that the BRA may demise a long term leasehold interest in, or convey the fee title to, Parcel B in connection with the redevelopment of the Rowes Wharf Premises, subject to the rights of Atlantic pursuant to the Cooperation Agreement and Deed as modified herein, and may authorize construction beneath the New Site Improvements to be constructed by Rowes Wharf on

Parcel B as herein described. Atlantic acknowledges that it has reviewed the plans prepared by Rowes Wharf for construction of those portions of the Project to be constructed in Parcel B, including, without limitation, plans for a slurry wall, foundation, steel sheet pile bulkhead, site utilities, and for the New Storm Drain as defined in the BWSC Cooperation Agreement.

(c) Atlantic hereby consents to the use by Rowes Wharf during the construction period of the Project of Parcel A as described in the Cooperation Agreement, together with any pilings, piers or docks affixed thereto and belonging to Atlantic, for the purpose of docking commercial vessels operated by one or more licensees or sublicensees of Rowes Wharf to allow commuter passengers to embark and disembark to and from such vessels. Rowes Wharf shall pay to Atlantic a license fee of \$650 per month for each month, or portion thereof, that Rowes Wharf so utilizes such Parcel A.

(d) Atlantic will cooperate with Rowes Wharf and the BRA to execute such documents as may be necessary to suspend the obligations of Harbour Crossing Company, Inc. under that certain License Agreement among Atlantic, the BRA and Harbour Crossing Company dated March 24, 1984 (the "Harbour License") for such period as construction of the Project interrupts access to Parcel A, and to amend such agreement to delete any further

obligation of Harbour Crossing Company, Inc. to maintain site improvements in Parcel B, and otherwise to recognize the temporary and permanent effects upon the obligations of the parties set forth in such License Agreement by reason of construction of the Project and the provisions of this Agreement.

3. (a) In accordance with the Waterways License and the Memorandum of Understanding, Rowes Wharf has committed to use its best efforts to cause the southerly extension of floating dock facilities to be constructed as part of the Project for a distance of approximately 130 feet in the waters adjacent to the 400 Premises (the "Dock Extension"). If such Dock Extension is so constructed, such Dock Extension is to be used and operated as a part of the commercial maritime terminal, as defined in the Waterways License, in the Project. Atlantic hereby consents to the construction by Rowes Wharf of such Dock Extension adjacent to the 400 Premises as set forth in Condition 8 of the Waterways License and Paragraph 3 of the Memorandum of Understanding if the same shall be required by the Operations Board, subject to such conditions as may be imposed by Atlantic as set forth in subparagraph 3(b) hereof. Atlantic agrees to execute such easements and other further agreements as may be necessary to confirm the right of Rowes Wharf to so construct such Dock Extension, including the right to drive piles in the portion of Boston Harbor constituting

Parcel A as described in the Cooperation Agreement lying to the west of the 400 Premises, and to affix a floating dock to structures constituting the 400 Premises, all without additional consideration to Atlantic but at the sole cost and expense of Rowes Wharf. Rowes Wharf shall deliver to Atlantic such indemnification against physical damage to the Atlantic Premises as Atlantic may reasonably require prior to undertaking any construction of the Dock Extension.

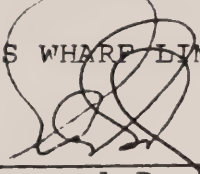
(b) In consideration of the foregoing agreement of Atlantic, Rowes Wharf agrees that all operators of vessels providing commercial maritime service from the Dock Extension constructed by Rowes Wharf as contemplated by the preceding paragraph shall have equal access to, and rights to utilize, office and storage space existing from time to time in the commercial maritime terminal, as defined in the Waterways Licenses, of the Project. For purposes of the maintenance, management and administration of the Dock Extension so construed in or adjacent to the 400 Premises, such Dock Extension shall be treated for all purposes as a part of the commercial maritime terminal in the Project; provided, however, that the use of the Dock Extension, and the rules and regulations applicable thereto, shall be subject to such limitations and supplemental rules and regulations as Atlantic may impose at the time such Dock

Extension is to be constructed or from time to time thereafter, which limitations may be set forth in any easements or other agreements to be granted or delivered by Atlantic as contemplated by subparagraph 3(a) above or in any such supplementary rules and regulations promulgated by Atlantic and delivered to the Operations Board. Without limiting the generality of the foregoing, Atlantic may impose limitations upon the use of the Dock Extension, or adopt rules and regulations with respect thereto, of the nature contained in the Harbour License.

4. The provisions of this agreement shall be binding upon the parties hereto and their respective successors and assigns.

Executed under seal the day and date first above written.

ROWES WHARF LIMITED PARTNERSHIP

By: 
General Partner

ATLANTIC AVENUE LIMITED
PARTNERSHIP

By: Northland Atlantic Limited
Partnership, its General
Partner

By: Northland Realty Corporation,
its General Partner

By: _____

BOSTON REDEVFLOPMENT AUTHORITY

By: _____
Stephen Coyle, Director

COMMONWEALTH OF MASSACHUSETTS

Suffolk:ss

July 24, 1985

Then personally appeared before me Elaine N. Sudman,
the General Partner of Rows Wharf Limited Partnership, and
acknowledged that the foregoing instrument to be his free act and
deed and the free act and deed of Rows Wharf Limited
Partnership.

Margaret A. Thompson
Notary Public

My Commission expires: 11/4/88

COMMONWEALTH OF MASSACHUSETTS

Suffolk:ss

, 1985

Then personally appeared before me _____
_____, the General Partner of Northland Realty
Corporation, which is the General Partner of Northland Atlantic
Limited Partnership, which is the General Partner of Atlantic
Avenue Limited Partnership, and acknowledged that the foregoing
instrument is his free act and deed and the free act and deed of
Atlantic Avenue Limited Partnership, Northland Atlantic Limited
Partnership, Northland Realty Corporation.

Notary Public

My Commission expires: _____

COMMONWEALTH OF MASSACHUSETTS

Suffolk:ss

, 1985

Then personally appeared before me Stephen Coyle, the
Director of the Boston Redevelopment Authority, and acknowledged
that the foregoing instrument to be his free act and deed and the
free act and deed of the Boston Redevelopment Authority.

Notary Public

My Commission expires: _____

MCCORMACK & PUTZIGER

EDWARD J. MCCORMACK, JR., P.C.
MYRNA PUTZIGER, P.C.
JOEL Z. EIGERMAN, P.C.
EDWARD J. MCCORMACK, III
JAMES H. GREENE

ATTORNEYS AT LAW
225 FRANKLIN STREET
BOSTON, MASSACHUSETTS 02110
(617) 357-1600

NORMAN I. HASSMAN
IRVING A. RACHSTEIN
ANGELO J. FIUMARA
COUNSEL

WILLIAM J. SMITH
MARTHA J. MCMAHON
IAN M. VEITZER

July 24, 1985

G. Michael Hawkey, Esquire
Sullivan and Worcester
One Post Office Square
Boston, Massachusetts 02109

Re: Rowes Wharf

Dear Mr. Hawkey:

Myrna has asked that I forward to you six copies of the Rowes Wharf Cooperation Agreement which has been executed by Edwin N. Sidman as General Partner of Rowes Wharf Limited Partnership. Please submit all six copies to Commissioner Gens for signature in order that they may be executed by the BRA after tomorrow's Board meeting. I will be happy to send a messenger to the Water and Sewer Commission later this afternoon to pick up the executed copies.

Very truly yours,

Maryann Thompson
for Myrna Putziger, P.C.

/mt
Enclosures

McCORMACK & PUTZIGER

ATTORNEYS AT LAW

225 FRANKLIN STREET
BOSTON, MASSACHUSETTS 02110
(617) 357-1600

EDWARD J. MCCORMACK, JR., P.C.
MYRNA PUTZIGER, P.C.
JOEL Z. EIGERMAN, P.C.
EDWARD J. MCCORMACK, III
JAMES H. GREENE
WILLIAM J. SMITH
MARTHA J. MCMAHON
IAN M. VEITZER

NORMAN I. HASSMAN
IRVING A. RACHSTEIN
ANGELO J. FIUMARA
COUNSEL

July 24, 1985

G. Michael Hawkey, Esquire
Sullivan and Worcester
One Post Office Square
Boston, Massachusetts 02109

Re: Rows Wharf

Dear Mr. Hawkey:

Myrna has asked that I forward to you six copies of the Rows Wharf Cooperation Agreement which has been executed by Edwin N. Sidman as General Partner of Rows Wharf Limited Partnership. Please submit all six copies to Commissioner Gens for signature in order that they may be executed by the BRA after tomorrow's Board meeting. I will be happy to send a messenger to the Water and Sewer Commission later this afternoon to pick up the executed copies.

Very truly yours,

Maryann Thompson
for Myrna Putziger, P.C.

/mt
Enclosures

the decree of registration issued by the Land Court in Case No. 18896 and in a Stipulation between Donald M. Hill et al, Trustees and the City of Boston filed with the papers in such case on April 10, 1945 which is registered with the Suffolk Registry District of the Land Court as Document No. 170055.

Grantee, by accepting this deed and causing it to be recorded, expressly assumes and agrees to indemnify and hold the Commission, its members, officers and employees, harmless from and against any and all obligations, liabilities, commitments or claims, of whatever kind or nature, on account of injury, death, damage or loss to person or property, related to or arising out of or in connection with the release of such easement or other rights relating to the maintenance of water and sewerage facilities (including without limitation, any obligation to service, repair or restore the property hereby released or contiguous or adjacent thereto).

IN WITNESS WHEREOF, the Boston Water and Sewer Commission has caused its corporate seal to be affixed hereto and these presents to be signed in its name and behalf this _____ day of _____, 1985.

BOSTON WATER AND SEWER COMMISSION

By: _____

Commonwealth of Massachusetts

Suffolk:ss

, 1985

Then personally appeared before me, the above-named _____ and acknowledged the foregoing to be his free act and deed and the free act and deed of the Boston Water and Sewer Commission.

Notary Public

My Commission expires:

Grantor shall have the right to use the surface and below grade portions of the Easements for:

- (a) walkways, sidewalks, and similar pedestrian purposes;
- (b) for landscaping and street furniture;
- (c) for the installation of utility and drainage lines and conduits, including, without limitation, lines to connect the Rows Wharf Project to facilities of the Commission in Atlantic Avenue and the New Storm Drain, grease traps or interceptors, and electrical conduit for site lighting of such size and in such locations as are approved from time to time by the Commission, such approval not to be unreasonably withheld; and
- (d) for vehicular access for emergency vehicles, maintenance vehicles, vehicles providing assistance to the handicapped and other vehicles as appropriate.

Other than as permitted hereunder or under the Cooperation Agreement, no buildings, structures or other similar improvements may be constructed in, over or upon the Easements without the prior written consent of the Commission.

Grantor shall be liable for and shall indemnify the Commission for any and all damage to any of the Facilities (or to any of the Facilities as may be located from time to time in

Atlantic Avenue pursuant to this Grant of Easement) caused by any act, negligence or omission by Grantor or by any party claiming by, through or under Grantor (including, without limitation, all employees, agents, licensees, grantees, lessees or contractors of Grantor), or caused as a result of any construction or by any shifting or settling of any buildings or structures on any property of Grantor or the Partnership (or of any such party claiming by, through or under Grantor) adjacent to the Easements.

The Commission, by accepting and recording this Grant of Easements, agrees that (i) except in cases of emergency, it will, if practicable, give prior notice to the Grantor of any excavation or other work which will disrupt the surface of the Easements and allow Grantor reasonable opportunity to remove improvements and (ii) upon completion of any such excavation or other work the Easements will be back-filled as the circumstances require; but in no event shall the Commission ever be liable for repair or replacement of any improvements whatsoever located in the areas of the Easements which are removed or damaged by the Commission in the exercise of its rights hereunder, or be obligated to replace any landscaping or any other finished surface other than in accordance with minimum City of Boston standards for concrete sidewalk pavement Type VA-4 straight or curved granite edgestone or Class I bituminous concrete. Grantor

agrees that upon receipt of notice of any such proposed excavation or other work Grantor shall promptly cause to be removed from the Easements all obstructions, vehicles and other property which might interfere with such excavation or other work.

The rights, liabilities, agreements and obligations herein granted and set forth, and those set forth in the Cooperation Agreement, shall inure to the benefit of and be binding upon the successors, assigns, grantees, lessees, agents, contractors and transferees of the Grantor, and those claiming by, through or under the Grantor, as applicable and shall inure to the benefit of and be binding upon the Commission, its successors, assigns and transferees, and upon all other persons claiming by, through or under the Commission (including, without limitation, all contractors of the Commission), respectively.

For Grantor's title, see Ordwr of Taking recorded in Suffolk Registry of Deeds in Book 11419, Page 10.

Executed under seal this day of , 1985.

BOSTON REDEVELOPMENT AUTHORITY

By: _____
Its

COMMONWEALTH OF MASSACHUSETTS

, ss

, 1985

Then personally appeared the above-named _____
and _____ of the
Boston Redevelopment Authority, and acknowledged the foregoing
instrument to be his free act and deed and the free act and deed
of the Boston Redevelopment Authority, before me.

Notary Public

My Commission expires: _____

EXHIBIT "B"

RELEASE DEED

KNOW ALL MEN BY THESE PRESENTS, that Boston Water and Sewer Commission, a body politic and corporate duly organized and existing pursuant to Chapter 436 of the 1977 Acts and Resolves and having a usual place of business at Ten Post Office Square, Boston, Massachusetts (the "Commission"), for consideration paid, the receipt and sufficiency of which are hereby acknowledged, hereby releases to the Boston Redevelopment Authority, a public body and corporate duly organized and existing pursuant to Massachusetts General Laws Chapter 1212B and Chapter 652 of the Acts of 1960, as amended, and having a usual place of business in Boston, Massachusetts (the "Grantee"), all of its right, title and interest in and to any easement or other rights for the maintenance of water and sewerage facilities located in that portion of Belcher Lane lying easterly of Atlantic Avenue in Boston, Massachusetts, as shwon on a plan entitled "City of Boston, Public Works Department, Engineering Division, Discontinuance Plan, Belcher Lane, Boston Proper" dated February 1, 1984, drawn by Cullinan Engineering Co., Inc., said plan to be recorded in Suffolk County Registry of Deeds, including, without limitation, the sewer easement referred to in

ROWES WHARF COOPERATION AGREEMENT

THIS AGREEMENT is made this day of , 1985 by and between Rowes Wharf Limited Partnership, a Massachusetts limited partnership having a usual place of business in Boston, Massachusetts (hereinafter called "Developer"), the Boston Redevelopment Authority (the "BRA") and the Boston Water and Sewer Commission (the "Commission"), both being body politics and corporate and political subdivisions of the Commonwealth of Massachusetts and both having a place of business in Boston, Massachusetts.

W I T N E S S E T H:

WHEREAS, the BRA is the owner of a parcel comprised of Rowes Wharf and Fosters Wharf ("Rowes Wharf") in the Downtown Waterfront-Faneuil Hall Urban Renewal Area and the Developer is the designated redeveloper thereof;

WHEREAS, the Commission is the owner of certain rights and easements for water, drain and sewerage facilities located within Belcher Lane in the City of Boston; and

WHEREAS, the Developer and the BRA desire to have the City of Boston discontinue that portion of Belcher Lane situated on the easterly side of Atlantic Avenue as shown on a plan entitled "City of Boston, Public Works Department, Engineering Division,

Discontinuance Plan, Pelcher Lane, Boston Proper" dated February 1, 1984 (the "Belcher Lane Discontinuance Plan"), and discontinue that portion of Atlantic Avenue shown on a plan entitled "City of Boston, Public Works Department, Engineering Division, Discontinuance Plan, Atlantic Avenue, Boston District," dated November 29, 1984 (the "Atlantic Avenue Discontinuance Plan"), said plans to be recorded in Suffolk Registry of Deeds; and

WHEREAS, the Developer and the BRA are desirous of having the Commission consent to the discontinuance of Belcher Lane and such portion of Atlantic Avenue so as to enable Developer to construct certain improvements in and upon Rows Wharf and such discontinued portion of Belcher Lane and Atlantic Avenue (the "Rows Wharf Project"); and

WHEREAS, the Commission is willing to consent to such discontinuances in consideration for the construction, by Developer, of the storm water drain facilities hereinafter described and the design, by Developer, of certain new sewer and storm drains lines in Atlantic Avenue as hereinafter described; and

WHEREAS, the Commission, in connection with the construction of new sewer and storm drain lines in Atlantic Avenue (the "New Atlantic Avenue Lines") requires a permanent easement along the southerly boundary of Rows Wharf for a new 42-inch reinforced concrete storm drain line to be constructed in such area, and may

require a permanent easement in that portion of Atlantic Avenue being so discontinued in order to accommodate any part of the New Atlantic Avenue Lines as may be constructed or located within such portion of the discontinued area not occupied or to be occupied by the Rows Wharf Project as shown on the Atlantic Avenue Discontinuance Plan and the 4E Contract Plans, as hereinafter defined; and

WHEREAS, the BRA is willing to grant to the Commission such easements; and

WHEREAS, the Commission and the Developer desire to coordinate the construction by the Developer of the Rows Wharf Project and the construction by the Commission of the New Atlantic Avenue Lines in order to minimize inconvenience to each party and to minimize traffic disruption.

NOW, THEREFORE, for and in consideration of the mutual promises, agreements and covenants herein contained, the parties hereby agree as follows:

1. The Developer will, at its sole expense, subsequent to the discontinuances (the "Discontinuances") of the aforesaid portions of Belcher Lane and Atlantic Avenue, cause the New Storm Drain, as hereinafter defined, to be constructed within the area of the permanent easement granted pursuant to the grant of easement attached hereto as Exhibit "A", from Station 0+00 to

Station 1+46, being from Developer's steel sheet pile bulkhead on the east to a bulkheaded point in Atlantic Avenue on the west, together with the construction and installation of all facilities, fittings and equipment appurtenant or necessary thereto (hereinafter collectively called the "New Storm Drain"), substantially as shown on and in accordance with the plans entitled New 42-Inch Storm Drain Outfall in Conjunction with Rowes Wharf, 350 Atlantic Avenue, Boston, Massachusetts, dated March 5, 1985 (the "New Storm Drain Plans"), prepared at the Developer's expense by Parsons Brinckerhoff Quade Douglas, Inc. ("Parsons Brinckerhoff"). Developer shall submit final plans and full specifications describing the New Storm Drain to the Commission for review and approval within sixty (60) days from the date hereof and shall cause Parsons Brinckerhoff to make such modifications and changes to such final plans and specifications as the Commission may reasonably request. The Commission will require that the New Storm Drain be constructed in accordance with the final, approved New Storm Drain Plans and specifications, and under the supervision of Parsons Brinckerhoff (or such other registered professional engineer experienced in water and sewer facilities design and construction as may be retained by Developer with the approval of the Commission), the cost of which will be paid by the Developer. The Commission and

its authorized agents will have the right to inspect and approve for compliance with the New Storm Drain Plans the manner of installation, the method of support and the manner of backfill of the New Storm Drain. The New Storm Drain shall be completed at the earlier of (i) three (3) months after the date the Commission awards the construction contract for the New Atlantic Avenue Lines (the "Contract 4E," so-called) or (ii) three (3) years from the date hereof. For a period of one (1) year from completion and acceptance of the New Storm Drain by the Commission, the Developer will, at its sole cost and expense, promptly make any repairs or replacements necessary to the New Storm Drain arising as a result of defects in materials, workmanship or construction. Within three months prior to the expiration of said one-year warranty period the New Storm Drain will be inspected by Parsons Brinckerhoff (or such other registered professional engineer), at the Developer's expense, and written reports of such inspections will be delivered to the Commission.

The Commission shall be responsible to apply for and use its best efforts to obtain any and all governmental permits or approvals necessary to connect or use the New Storm Drain as part of the Commission's facilities, including, without limitation, application for a N.P.D.E.S. discharge permit, if required. Developer will provide to the Commission any plans or other

design documents of the New Storm Drain which may be required in connection with such applications.

2. Developer has caused Parsons Brinckerhoff to prepare, at Developer's sole cost and expense, plans entitled "Eastside Interceptor, North Branch, Contract 4E dated March 5, 1985 (the "4E Contract Plans") which plans show the layout of the New Atlantic Avenue Lines. The Commission hereby acknowledges that the configuration of the New Atlantic Avenue Lines as shown in the 4E Contract Plans satisfactorily meets the functional criteria of the Commission for the New Atlantic Avenue Lines. Developer shall cause the 4E Contract Plans, together with full specifications necessary for solicitation of bids for construction of the New Atlantic Avenue Lines, to be completed and delivered to the Commission within sixty (60) days from the date hereof. The Developer agrees to make such modifications and additions to the 4E Contract Plans, and such related specifications, as are consistent with the basic design and engineering concept shown in the 4E Contract Plans, as the Commission, the Massachusetts Department of Water Pollution Control ("DWPC") or the Environmental Protection Agency (the "EPA") may thereafter require. The Commission hereby agrees that the New Atlantic Avenue Lines shall be constructed in a configuration lying no more easterly than the configuration shown on the 4E Contract

Plans and the Atlantic Avenue Discontinuance Plan. The Commission further agrees that it will use its best efforts to obtain EPA (or other governmental agency) funding for the New Atlantic Avenue Lines at the earliest possible date, including, without limitation, the assignment of highest priority to such funding. The parties recognize that it would be advantageous for construction of the New Atlantic Avenue Lines to be completed in coordination with construction of the Rowes Wharf Project and, as near as practicable, prior to completion of construction of the Rowes Wharf Project, but Developer acknowledges that such construction may occur subsequent to completion of the Rowes Wharf project.

3. The Developer will also cause to be constructed and completed, as and in the locations shown on the Atlantic Avenue Discontinuance Plan and the 4E Contract Plans, (but not more westerly than the configuration shown on the Atlantic Avenue Discontinuance Plan), the slurry wall and appurtenant support facilities to the slurry wall located on the easterly side of Atlantic Avenue (the "Slurry Wall Construction"). The Slurry Wall Construction shall be completed prior to the date the Commission commences construction of the New Atlantic Avenue Lines. In the event the Slurry Wall Construction is not fully

completed as of the date construction commences on the New Atlantic Avenue Lines, the Commission will have the right, as its sole remedy as a result of such failure to so complete the Slurry Wall Construction, to utilize alternate methods of construction (including, without limitation, the use of permanent steel sheeting) to support the excavation for the New Atlantic Avenue Lines and the Developer will pay, from time to time on demand, all costs incurred by the Commission in the construction of the New Atlantic Avenue Lines which exceed the costs which would have been incurred had the Slurry Wall Construction been so completed provided, however, that the Commission shall use its best efforts to seek reimbursement for such excess costs from EPA (or any other government agency) as part of the funding for the 4E Contract for the construction of the New Atlantic Avenue Lines and in the event the Commission shall be reimbursed by the EPA (or by any other government agency) for any such excess costs, the Commission shall, as and to the extent the Commission shall receive funds from the EPA or such other governmental agency, reimburse the Developer for such excess costs as may have been paid to the Commission by the Developer. The Commission and the Developer agree that certification(s) from Camp, Dresser & McKee, Inc., independent engineers for the Commission, as to the amount of any such excess construction costs, shall be binding on the

Developer and the Commission. In the construction of the New Atlantic Avenue Lines, the Commission may shore right up against the Slurry Wall Construction.

4. The Developer shall be responsible for all costs and expenses related to or associated with the preparation of New Storm Drain Plans, construction of the New Storm Drain, the Slurry Wall Construction, and preparation of the 4E Contract Plans and for all costs and expenses of the Commission related to or associated with the Discontinuances (including, without limitation, all legal, engineering and other professional fees incurred by the Commission) provided, however, that except as expressly set forth in Paragraphs 3 and 7 hereof, nothing herein shall be construed to render Developer responsible for the cost of constructing the New Atlantic Avenue Lines.

5. Prior to and during construction of the New Storm Drain, the Developer will, from time to time, on request of the Commission, provide the Commission with such backup documentation relating to the New Storm Drain as is required under applicable regulations of the EPA, the DWPC or of any other agency of the Commonwealth of Massachusetts or Federal government, and as may be reasonably requested by the Commission in order to assist the Commission in the construction of the New Atlantic Avenue Lines and in obtaining reimbursement for the costs of the New Atlantic

Avenue Lines from appropriate governmental agencies. In such regard, the Developer will maintain the following data at the Rowes Wharf Project or at another location in Boston, Massachusetts reasonably acceptable to the Commission: construction change orders (including substantiation thereof); stationing and other pertinent dimensions; submittals (shop drawings and the like); and certifications of compliance (if any). Upon completion of the New Storm Drain the Developer will deliver "as-built" plans of the New Storm Drain to the Commission, certified as to accuracy and completion substantially in accordance with the final, approved New Storm Drain Plans and specifications by Parsons Brinckerhoff (or such other registered professional engineer). Upon receipt of such as-built plans and certification the Commission shall deliver to the Developer its written acceptance of the New Storm Drain.

6. Upon the execution of this Agreement (and prior to the date the Discontinuances shall be made final), the BRA shall execute and deliver to the Commission, substantially in the form attached hereto as Exhibit "A", easements covering the area in which the New Storm Drain will be constructed by the Developer, and the area of Atlantic Avenue to be so discontinued (as shown on the Atlantic Avenue Discontinuance Plan) with respect to any part of the New Atlantic Avenue Lines as may be constructed or

located within such discontinued portion of Atlantic Avenue not occupied or to be occupied by the Slurry Wall Construction (the "Grant of Easements").

7. The Developer shall be liable for all damages to any and all utility lines of the Commission, and to all facilities, fittings and equipment appurtenant thereto, arising out of any act, construction, negligence or omission in, under, upon or adjacent to the New Atlantic Avenue Lines or the New Storm Drain by any person claiming by, through or under Developer (including, without limitation, all employees, agents, lessees, licensees or contractors of Developer). Developer further agrees to hold the Commission harmless and to indemnify the Commission from and against any and all claims, liabilities, penalties or obligations, of whatever kind or nature, on account of injury, death, damage or loss to person or property relating to or arising out of or in connection with the construction New Storm Drain, the Slurry Wall Construction and/or the Rowes Wharf Project by the Developer, other than as to any such claims, liabilities, penalties or obligations which may arise as the result of the Commission's negligent acts or omissions or the negligent acts or omissions of any agent, employee, licensee or independent contractor of the Commission.

Without limiting the generality of the foregoing, the Developer hereby indemnifies the Commission for any costs incurred by the Commission in the construction of the New Atlantic Avenue Lines by reason of the westerly encroachment of the Slurry Wall Construction beyond the westerly line of discontinuance shown on the Atlantic Avenue Discontinuance Plan at any point lying within twenty five (25) feet beneath the existing surface grade of Atlantic Avenue, or by reason of the bonding or adherence of obstructions lying westerly of such line of discontinuance to the Slurry Wall Construction at any point lying within twenty five (25) feet beneath the existing surface grade of Atlantic Avenue. Notwithstanding the foregoing sentence, Developer shall have no obligation to the Commission for any such costs unless (i) the Commission shall have given to Developer notice of the existence of any such encroachment or bonded obstruction, (ii) the Commission shall have provided to Developer the opportunity to remove such encroachment or bonded obstruction and (iii) the Developer shall have failed to commence such removal within two business days after receipt of such notice and shall have thereafter failed to diligently and continuously proceed to complete such removal.

The Developer and the BRA further agree and acknowledge that construction of the New Atlantic Avenue Lines may occur during or

subsequent to construction of the New Storm Drain, the Slurry Wall Construction and/or the Rowes Wharf Project and that the Commission will have no liability, in law or in equity, for any noise, dust, inconvenience, obstruction or, except as otherwise expressly provided herein, interruption of access to the Slurry Wall Construction and/or the Rowes Wharf Project, interruption of water or sewerage service, interference with contractors or construction equipment of the Developer or for removal, damage to or replacement of any improvements located within the area of the aforesaid easements to be granted to the Commission pursuant to the Grant of Easements. The Developer and the Commission agree to cooperate in the conduct of their respective construction activities described herein, and to incorporate in the contract for the Slurry Wall Construction and the 4E Contract the obligation of the respective contractors to so cooperate. The Developer and the BRA further agree that in the event the Commission shall determine that the Slurry Wall Construction is interfering with installation of the New Atlantic Avenue Lines, within thirty (30) days of written notice from the Commission all personnel and equipment (including, without limitation, all tower cranes, elevators, trailers and the like) will be removed from any parts of Atlantic Avenue and such discontinued portion of Atlantic Avenue in which the Commission holds an easement in

which the Commission has determined such interference is occurring until such time as the construction and installation of the New Atlantic Avenue Lines shall have been completed in such parts; provided, however, (i) the Commission agrees to give notice to the Developer promptly after receipt of any grant offer from the EPA relating to the New Atlantic Avenue Lines and further agrees to give notice to the Developer promptly after advertising for bids for construction of the New Atlantic Avenue Lines pursuant to the 4E Contract Plans and (ii) the 4E Contract shall provide that the Commission and its contractors and subcontractors shall provide uninterrupted access to the Rowes Wharf site at no less than three identified locations occurring generally at the northern, central and southern portions of the Atlantic Avenue frontage of the Rowes Wharf Project site, respectively, having a minimum width of thirty (30) feet, which locations may be moved from time to time as construction of the New Atlantic Avenue Lines progresses. In respect of all of the foregoing, Developer shall indemnify the Commission for and against all costs, expenses (including reasonable attorneys' fees) and liabilities incurred in connection with any such claim, action or proceeding brought thereon and Developer shall, at its expense, resist or defend any such action or proceeding and employ counsel therefore reasonably satisfactory to the Commission.

8. Upon the execution and delivery of the Grant of Easements, the Commission shall execute and deliver to the BRA a release deed, releasing any and all rights of the Commission in Belcher Lane, substantially in the form attached hereto as Exhibit "B".

9. Upon the completion of the New Storm Drain and acceptance thereof by the Commission, all right, title and interest thereto shall, subject to the warranty provision of Section 1 hereof, thereupon vest in the Commission without any claim by the Developer or the BRA, or any other party, for compensation from the Commission.

10. Except for liability arising under the second grammatical paragraph of Section 7 hereof, no general or limited partner of the Developer, or any party in joint venture with the Developer, shall have any personal liability for the obligations of the Developer hereunder in excess of \$500,000, the Commission hereby agreeing to look solely to the assets of the Developer for satisfaction of any claim arising hereunder (other than as may arise under such second paragraph of Section 7) in excess of \$500,000.

11. The Commission, the Developer and the BRA agree that at any time, and from time to time, they will execute and deliver, or cause to be executed and delivered, such further agreements,

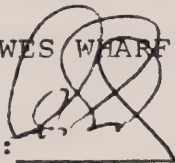
instruments and written assurances as any other party shall reasonably request or deem necessary to carry out the provisions of this Agreement, or to facilitate the enjoyment of any rights created hereby or to be created hereunder.

The terms and provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors, assigns, grantees, licensees, lessees, mortgagees and other transferees, and upon all other persons or entities claiming by, through or under the Developer, the PRA or the Commission, respectively.

IN WITNESS WHEREOF, the parties have caused this Agreement to be sealed and subscribed as of the date hereinabove set forth.

Attest:

ROWES WHARF LIMITED PARTNERSHIP

By: 

Its General Partner

Its

Attest:

BOSTON REDEVELOPMENT AUTHORITY

By: _____

Its

Its

Attest:

BOSTON WATER AND SEWER COMMISSION

By: _____

Its

Its

EXHIBIT "A"

GRANT OF EASEMENTS

KNOW ALL MEN BY THESE PRESENTS, that the Boston Redevelopment Authority (the "Grantor"), a public body and corporate duly organized and existing pursuant to Massachusetts General Laws Chapter 121B and having a usual place of business in Boston, Massachusetts, being the owner of property situated in Boston, Suffolk County, Massachusetts shown on plans entitled "Plan of Property of Boston Redevelopment Authority Showing Easements to be granted to Boston Water & Sewer Commission, Atlantic Avenue, Boston, Massachusetts," dated May 10, 1985 drawn by Cullinan Engineering Co., Inc. (the "Permanent Easement Plan") to be recorded herewith and a plan entitled "City of Boston, Public Works Department, Engineering Division, Discontinuance Plan, Atlantic Avenue, Boston District", dated November 29, 1984, drawn by Cullinan Engineering Co., Inc. (the "Atlantic Avenue Discontinuance Plan"), recorded with Suffolk Registry of Deeds at Book ____, Page ____, for consideration paid, hereby grants to the Boston Water and Sewer Commission (the "Commission"), a body politic and corporate duly organized and existing pursuant to

Chapter 436 of the 1977 Acts and Resolves and having a usual place of business at Ten Post Office Square, Boston, Massachusetts, its successors and assigns, with QUITCLAIM COVENANTS, the following:

(a) the perpetual right and exclusive easement over, across, in, under, upon and within a strip of land approximately fourteen and one-half (14.5) feet in width and approximately 146.5 feet in length, commencing at elevation 19.50 and continuing below, being located approximately parallel to the southerly boundary of the premises of the Grantor as more particularly shown on the said Permanent Easement Plan (said easement being identified on the Permanent Easement Plan as "Storm Drain Easement"), to install, lay, construct, operate, maintain, use, inspect, repair, alter, improve and replace drain pipes and all appurtenances, fittings and equipment necessary or related thereto (hereinafter collectively called the "Facilities");

(b) the perpetual right and easement over, across, in, upon and within a strip of land approximately thirty (30) feet in width and approximately 146.5 feet in length lying between elevation 19.5 and 84.5 for the purpose of access to and maintenance of the Storm Drain Easement (said easement being identified on the Permanent Easement Plan as "Access & Maintenance Easement"); and

(c) the perpetual right and exclusive easement over, across, in, under, upon and within that portion of Atlantic Avenue to be discontinued as shown on the Atlantic Avenue Discontinuance Plan as a strip of land containing 3754 square feet of land, being located parallel to the easterly boundary of Atlantic Avenue, for all purposes necessary or appropriate in connection with the installation and construction, at any time, of any Facilities within Atlantic Avenue, subject, however to the construction and maintenance of a slurry wall and to be constructed within such discontinued portion of Atlantic Avenue by Grantor's ground lessee, Rows Wharf Limited Partnership (the "Partnership"), as more particularly described in a certain Rows Wharf Cooperation Agreement (the "Cooperation Agreement") of even date herewith entered into by and between Grantor, the Commission and the Partnership. In connection with the foregoing grant of such easements (the "Easements"), the Commission may enter upon and pass along the Easements for all of the above purposes (including, without limitation, all construction purposes) and may pass over Grantor's premises to and from said Easements as from time to time may be reasonably required. Grantor agrees that the Commission may discontinue or abandon the Easements at any time.

GUARANTY OF COMPLETION

THIS GUARANTY made as of the day of July, 1985 by THE BEACON COMPANIES, a Massachusetts limited Partnership having its principal office at One Post Office Square, Boston, Massachusetts 02109, as guarantor (hereinafter referred to as "Guarantor"), to The Boston Redevelopment Authority, a body politic and corporate existing pursuant to Chapter 652 of the Acts of 1960, as amended (the "Authority").

WITNESSETH:

WHEREAS, Rowes Wharf Limited Partnership (hereinafter referred to as "RWLP"), an affiliate of Guarantor, and The Equitable Life Assurance Society of the United States (hereinafter referred to as "Equitable") have formed ROWES WHARF ASSOCIATES, a Massachusetts general partnership (hereinafter referred to as "Tenant") pursuant to that certain Joint Venture Agreement of even date herewith;

WHEREAS, Tenant, as tenant, and the Authority, as Landlord, have entered into that certain Ground Lease (hereinafter referred to as the "Ground Lease") of even date herewith, providing, among other things, for the construction by Tenant of certain Initial Improvements, as defined in the Ground Lease, and site work and landscaping on the Demised Premises as defined in the Ground

Lease, which Demised Premises, Initial Improvements, site work and landscaping are hereinafter collectively referred to as the "Project";

WHEREAS, Tenant has entered into a certain Development Agreement (hereinafter referred to as the "Development Agreement") of even date herewith with Guarantor for the purpose of having Guarantor oversee, direct and conduct the development of the Project;

WHEREAS, Tenant, as borrower, and Equitable, as lender have entered into that certain Construction Loan Agreement (hereinafter referred to as the "Construction Loan Agreement") of even date herewith, pursuant to which Tenant is obligated, among other things, to cause the Project to be constructed;

WHEREAS, Tenant, in order to obtain funds for such purposes, has executed and delivered, among other things, the Construction Loan Agreement whereby Equitable has agreed to advance to Tenant and Tenant has agreed to borrow from Equitable the aggregate principal amount of up to \$100,000,000 (hereinafter referred to as the "Loan");

WHEREAS, Guarantor is willing to enter into this Guaranty, and to make this Guaranty the valid and binding obligation of Guarantor;

NOW, THEREFORE, in consideration of the Authority's entering

into the Ground Lease and other good and valuable consideration paid to Guarantor, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby covenants and agrees as follows:

1. Capitalized terms used herein without definition shall have the meanings ascribed to them in the Ground Lease.

2. Guarantor hereby guarantees to the Authority (i) the obligation of Tenant pursuant to Section 7.6 of the Ground Lease to commence, continue and complete, as contemplated in Section 7.14 of the Ground Lease, construction of the Initial Improvements, and (ii) the obligation of Tenant to commence, continue and complete construction of all site work and landscaping as shown in the Final Drawings and Specifications approved by the Authority pursuant to the Ground Lease.

3. If Tenant fails to commence, continue and complete the Initial Improvements in the manner, within the time, and under the conditions as provided in the Ground Lease, then, without any period of cure being available to Guarantor in addition to, and following, any period of cure afforded Tenant and any Qualifying Leasehold Mortgagee under the Ground Lease, the Authority, subject to the terms and provisions of this Guaranty, but without any obligation to do so, may exercise any or all remedies available to it under the Ground Lease.

4. In no event shall the aggregate amount of Guarantor's liability under this Guaranty exceed \$15,200,000. For the purpose of applying the foregoing limitation, all sums expended by Tenant or by Guarantor for the Project other than from funds made available to Tenant or Guarantor from the proceeds of the Loan or any additional or replacement financings obtained by Tenant for the purpose, among others, of complying with its obligations under the Ground Lease to construct the Initial Improvements and the site work and landscaping, shall be deemed, for the purposes of this Guaranty, to have been expended by Guarantor in fulfillment of the undertaking of Guarantor made in Section 2 hereof.

5. The obligations of Guarantor hereunder with respect to the Initial Improvements shall terminate and expire, as to each Building in the Project, upon the issuance or deemed issuance by the Authority of a Certificate of Completion for such Building pursuant to Section 7.14 of the Ground Lease. The obligations of Guarantor hereunder with respect to site work and landscaping shall terminate and expire when such site work and landscaping shall have been completed without material deviation from the Final Plans and Specifications and the Architect has certified in writing such completion to Tenant.

6. Guarantor hereby waives notice of acceptance of this

Guaranty by the Authority and any and all notices and demands of every kind and description which may be required to be given to Guarantor or Tenant by any statute or rule of law (other than under the Ground Lease), and Guarantor agrees that its liability hereunder shall be in no way affected, diminished or released by any extension of time or forbearance which may be granted to Tenant (or any successor to it) or to any Qualifying Leasehold Mortgagee, or any waiver under the Ground Lease by the Authority, or by reason of any change or modification in the Ground Lease, and Guarantor hereby further waives any and all suretyship defenses generally which Guarantor may now or hereafter have against the Authority or Tenant.

7. Guarantor agrees that this Guaranty may be enforced by the Authority without the necessity at any time of resorting to or exhausting any remedies available to it under the Ground Lease. Guarantor further agrees that nothing herein contained shall prevent the Authority, in the exercise of its rights under this Guaranty, from exercising any other rights available to it under the Ground Lease, and the exercise of any of the aforesaid rights shall not constitute a legal or equitable discharge of Guarantor, it being the purpose and intent of Guarantor that its obligation hereunder shall be absolute and unconditional under any and all circumstances.

8. Any notice given under this Guaranty shall be in writing and shall be deemed sufficiently given if and when given in the manner set forth in Article 26 of the Ground Lease , addressed to the party for whom it is intended at the address set forth in Article 26 of the Ground Lease or at such other address as such party shall hereafter specify by notice to the other party, provided that notices to Guarantor shall given in such manner addressed as follows:

The Beacon Companies
One Post Office
Boston, Massachusetts 02108
Attn: Edwin N.Sidman

With Copies to:

Harold Stahler, Esquire
Guterman, Horwitz, Rubin & Rudman
3 Center Plaza
Boston, Massachusetts 02109

and

Myrna Putziger, P.C.
McCormack & Putziger
225 Franklin Street
Boston, Massachusetts 02110

9. All of the covenants and agreements contained herein shall bind and shall be the joint and several obligation of the successors and assigns of Guarantor, and each of the general partners of Guarantor, and shall inure to the benefit of the Authority and its successors and assigns.

10. This Guaranty shall be governed by the laws of the Commonwealth of Massachusetts.

11. If any term or provision of this Guaranty, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Guaranty, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Guaranty shall be valid and be enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, Guarantor has signed this Guaranty under seal as of the day and year first above written.

THE BEACON COMPANIES

By: _____
Norman B. Leventhal,
a general partner

By: _____
Edwin N. Sidman,
a general partner

By: _____
Alan M. Leventhal,
a general partner

By: _____
Mark S. Leventhal,
a general partner

The foregoing Guaranty is hereby accepted:

BOSTON REDEVELOPMENT AUTHORITY

By: _____
Stephen Coyle, director

ROWES WHARF ASSOCIATES
c/o THE BEACON COMPANIES
ONE POST OFFICE SQUARE
BOSTON, MASSACHUSETTS 02109

July 25, 1985

Boston Redevelopment Authority
City Hall
Boston, Massachusetts 02201

Gentlemen:

Reference is made to that certain Lease Commencement Agreement dated May 25, 1984 (the "LCA") by and between the Boston Redevelopment Authority, a public body politic and corporate organized under the laws of the Commonwealth of Massachusetts (the "BRA") and Rowes Wharf Limited Partnership, a Massachusetts limited partnership ("RWLP"). Specific reference is made to subparagraph f. of the paragraph numbered 6 of the LCA appearing on pages 8 through 10 of the LCA ("Subparagraph f."), which Subparagraph f. sets forth an obligation of RWLP to make a "Damages Loan," as therein defined, on the terms and conditions set forth in Subparagraph f.

The BRA, as lessor, and the undersigned Rowes Wharf Associates ("RWA"), a joint venture of RWLP and The Equitable Life Assurance Society of the United States, as successor to RWLP, as lessee, have entered into the Ground Lease contemplated by the LCA (the "Ground Lease"). The purpose of this letter is to set forth our agreement that the terms and provisions of Subparagraph f. shall survive the execution and delivery of the Ground Lease and the termination of the LCA, and that the "North Wharf Rent," as defined in Subparagraph f., is \$282,000 per annum.

Without limiting the generality of the foregoing, (i) the provisions of Section 3.1 of the Ground Lease shall not be construed to prevent the repayment of the Damages Loan in the manner contemplated by Subparagraph f. and (ii) we hereby confirm that amounts payable to the BRA as interest, Contingent Interest or principal pursuant to the Promissory Note annexed to the

Boston Redevelopment Authority
Page 2
July 25, 1985

Ground Lease as Exhibit I, may be applied to repayment of the Damages Loan and that such application shall not constitute a default under said Promissory Note or under the mortgage securing the same to be annexed to the Ground Lease as Exhibit K.

Please acknowledge your assent to the foregoing by signing in the space provided below. By so assenting, you acknowledge your agreement to disclose the provisions of this letter agreement to any assignee of your interest as Landlord under the Ground Lease, and to any subsequent holder of said Promissory Note or the mortgage securing the same, and that the provisions hereof shall be binding upon our respective successors and assigns.

ROWES WHARF ASSOCIATES
By: Rowes Wharf Limited
Partnership

BY: _____
General Partner

Accepted and agreed to:

BOSTON REDEVELOPMENT AUTHORITY

By: _____
Stephen Coyle, Director

DISCLOSURE STATEMENT CONCERNING BENEFICIAL INTEREST REQUIRED BY
M.G.L. ch. 7, SECTION 40J

- (1) Location: Rowes Wharf and Fosters Wharf, Atlantic Avenue, Boston, Massachusetts, as more particularly described in Schedule A annexed hereto and incorporated herein by reference.
- (2) Grantor and Lessor: Boston Redevelopment Authority
- (3) Grantee and Lessee: Rowes Wharf Associates, a Massachusetts general partnership
- (4) The undersigned hereby states, under the penalties of perjury and in compliance with the provisions of M.G.L. ch.7, Section 40J, that the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in the above-described property are listed on Schedule B annexed hereto and incorporated herein by reference.
- (5) The undersigned also acknowledges and states that none of the above listed persons or individuals is an official elected to public office in the Commonwealth of Massachusetts, nor is an employee of the State Department of Capital Planning and Operations.

SIGNED under the penalties of perjury.

ROWES WHARF ASSOCIATES

By: ROWES WHARF LIMITED PARTNERSHIP,
General Partner

By: _____
General Partner

Date: _____

SCHEDULE A

DESCRIPTION OF LEASED PREMISES

Parcel A

A parcel of land and water known as Rows and Fosters Wharves, on Atlantic Avenue in Boston, Suffolk County, Massachusetts, bounded and described as follows:

Beginning at a point on the easterly sideline of Atlantic Avenue, said point being the northwest corner of the property to be described, said property being now or formerly of the Boston Redevelopment Authority, said point of beginning having a Massachusetts Coordinate System value of X=721,346.69 and Y=494,815.18;

Thence running N 71° 12' 21" E along land or formerly of First City Developments Corp. of Boston - Harbor Towers II, a distance of six hundred forty-six and 50/100 (646.50) feet to a point on the State Harbor Line and former United States Pierhead & Bulkhead Line established by the War Department on April 24, 1940;

Thence turning and running S 28° 55' 55" W along said State Harbor Line and former United States Pierhead & Bulkhead Line a distance of eight hundred fifty and 01/100 (850.01) feet to a point;

Thence turning and running N 69° 05' 34" W along a line perpendicular to the Harbor Line in Boston Harbor established by Chapter 170 of the Acts of 1880 a distance of thirty-three and 12/100 (33.12) feet to a point;

Thence turning and running N 78° 09' 39" W along land now or formerly of Atlantic Avenue Limited Partnership, a distance of two hundred one and 29/100 (201.29) feet to a point;

Thence turning and running N 9° 10' 35" E, along the easterly sideline of said Atlantic Avenue, a distance of two hundred thirty-one and 00/100 (231.00) feet to a point;

Thence turning and running N 2° 11' 11" W along the easterly sideline of said Atlantic Avenue, a distance of two hundred fifty-four and 67/100 (254.67) feet to the point of beginning,

said parcel containing 234,224 square feet, more or less and being shown on a plan entitled "Property Line Plan for The Beacon Companies, Atlantic Avenue, Boston, Massachusetts" dated April 16, 1984, Scale 1 inch = 40 feet, prepared by Cullinan Engineering Co., Inc., recorded with Suffolk Registry of Deeds at Book 11419, Page 10.

Parcel B

That certain parcel of land beneath the surface of Atlantic Avenue in Boston, Suffolk County, Massachusetts shown on a plan entitled "Taking Plan, Rowes Wharf/Fosters Wharf Redevelopment Project, Boston Redevelopment Authority, Boston (Suffolk County) Massachusetts" prepared by Cullinan Engineering Co., Inc., Civil Engineers & Land Surveyors, Scale 1" = 20', dated November 27, 1984 recorded with Suffolk Registry of Deeds at Book 11351, Page 193, bounded and described as follows:

Beginning at a point on the easterly sideline of Atlantic Avenue, said point being the northeast corner of the property to be described, said property being now or formerly of the Boston Redevelopment Authority, said point of beginning having a Massachusetts Coordinate System value of X=721,346.69 and Y=494,815.18;

Thence turning and running S 2° 11' 11" E along the easterly sideline of said Atlantic Avenue, a distance of two hundred fifty-four and 67/100 (254.67) feet to a point;

Thence turning and running S 9° 10' 35" W, along the easterly sideline of said Atlantic Avenue, a distance of two hundred eight and 81/100 (208.81) feet to a point;

Thence turning and running N 78° 09' 39" W along land now or formerly of the City of Boston, a distance of eleven and 09/100 (11.09) feet to a point;

Thence turning and running in an arc curving to the left having a radius of one thousand two hundred thirty-four and 88/100 (1,234.88) feet for a distance of four hundred fifty-seven

and 70/100 (457.70) feet to a point;

Thence running N 71° 12' 21" E along land of the City of Boston, a distance of eleven and 95/100 (11.95) feet to the point of beginning,

said parcel being located vertically beneath the sidewalk between elevation 19.00 and 18.60 and continuing below.

DISCLOSURE STATEMENT
ROWES WHARF AND FOSTERS WHARF
SCHEDULE B

1. Boston Redevelopment Authority
City Hall
Boston, Massachusetts

as Lessor under a Ground Lease and under an Office/Retail Unit Lease, both of even date herewith, with Rowes Wharf Associates as Lessee.

2. Rowes Wharf Associates
c/o The Beacon Companies
One Post Office Square
Boston, Massachusetts

a joint venture consisting of the persons hereinafter described, as Lessee under the above referenced Ground Lease and Office/Retail Lease, and as grantee of the Reserved Unit and Hotel Unit in a condominium to be created upon the property described in Schedule A annexed hereto.

- a. The Equitable Life Assurance Society
of the United States
1285 Avenue of the Americas
New York, New York 10019

as joint venturer in Rowes Wharf Associates. The Equitable Life Assurance Society of the United States ("Equitable") is a mutual insurance company, owned by the policyholders therein which number in the hundreds of thousands. The entire list of Equitable's policyholders is not included in this Schedule B, but is available for inspection, upon reasonable prior notice, during regular business hours at the office of Equitable herein set forth.

- b. Rowes Wharf Limited Partnership
c/o The Beacon Companies
One Post Office Square
Boston, Massachusetts

as joint venturer in Rowes Wharf Associates. General and Limited Partners of Rowes Wharf Limited Partnership are as follows:

General Partners:

<u>Name</u>	<u>Business Address</u>
Norman B. Leventhal	The Beacon Companies One Post Office Square Boston, Massachusetts
Edwin N. Sidman	The Beacon Companies One Post Office Square Boston, Massachusetts
Alan M. Leventhal	The Beacon Companies One Post Office Square Boston, Massachusetts
Mark S. Leventhal	The Beacon Companies One Post Office Square Boston, Massachusetts

Limited Partners:

James Becker	The Beacon Companies One Post Office Square Boston, Massachusetts
Lionel Fortin	The Beacon Companies One Post Office Square Boston, Massachusetts
Douglas Mitchell	The Beacon Companies One Post Office Square Boston, Massachusetts
Robert J. Perriello	The Beacon Companies One Post Office Square Boston, Massachusetts

Alan M. Leventhal

The Beacon Companies
One Post Office Square
Boston, Massachusetts

TriGen Associates, a general partnership of
which the partners are:

Edwin N. Sidman

The Beacon Companies
One Post Office Square
Boston, Massachusetts

Norman B. Leventhal

The Beacon Companies
One Post Office Square
Boston, Massachusetts

Alan M. Leventhal

The Beacon Companies
One Post Office Square
Boston, Massachusetts

Paula L. Sidman

The Beacon Companies
One Post Office Square
Boston, Massachusetts

Mark S. Leventhal

The Beacon Companies
One Post Office Square
Boston, Massachusetts

Edward J. McCormack, Jr.

McCormack & Putziger
225 Franklin Street
Boston, Massachusetts

James M. Bradley

The Beacon Companies
One Post Office Square
Boston, Massachusetts

Richard M. Kelleher

The Beacon Companies
One Post Office Square
Boston, Massachusetts

ESTOPPEL CERTIFICATE

TO: Rowes Wharf Associates, a joint venture between The Equitable Life Assurance Society of the United States and Rowes Wharf Limited Partnership ("Tenant"); and

The Equitable Life Assurance Society of the United States ("Equitable").

RE: Ground Lease (the "Lease") dated July , 1985, by and between the Boston Redevelopment Authority as Landlord (the "Landlord") and Tenant.

Pursuant to Article 28 of the Lease, Landlord hereby certifies to Tenant and to Equitable as follows:

1. The Lease is unmodified and is in full force and effect;
2. Base Rent has been paid pursuant to the Lease for the period through and including July 31, 1985 and \$49,000 has been paid with respect to the rent due on August 1, 1985. No other charges have been paid in advance.
3. As of the date hereof, Landlord has approved, in accordance with Section 7.1 of the Lease, the following stages of design:
 - a. the Schematic Design as shown on the plans identified in Exhibit C-1 attached to the Lease;
 - b. the "fast-track" plans and specifications identified in Exhibit C-2 attached to the Lease; and
 - c. the Design Development identified in a letter dated May 2, 1985, from Stephen Coyle to Mr. Edwin Sidman, a copy of which letter and all attachments thereto and correspondence referred to therein, is attached to this Estoppel Certificate as Exhibit 1.
4. To the best of Landlord's knowledge, there are no defaults or Events of Default under the Lease.
5. Capitalized terms used herein without definition which

are defined in the Lease shall have the meanings ascribed to them therein.

EXECUTED as an instrument under seal this day of
 , 1985.

BOSTON REDEVELOPMENT AUTHORITY

By: Stephen Coyle, Director

COMMONWEALTH OF MASSACHUSETTS

SS. July , 1985

Then personally appeared the above-named Stephen Coyle, Director of the Boston Redevelopment Authority and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the Boston Redevelopment Authority, before me.

Notary Public

My Commission Expires:

BOSTON
REDEVELOPMENT
AUTHORITY

Stephen Coyle/Director

EXHIBIT 1

One City Hall Square
Boston, MA 02201
(617) 722-4300

May 2, 1985

Mr. Edwin Sidman
The Beacon Corporation
One Post Office Square
Boston, MA 02109

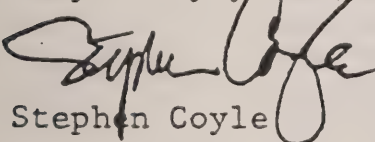
Re: ~~EL~~ Rowes Wharf/Design Development

Dear Mr. Sidman:

My staff has reviewed and discussed with the B.S.A. Design Team your Design Development Submission of April 19, comprising drawings listed in the attached index and the letter of the same date from Ms. Gladstone to Mr. Kroin amending the drawings. I am very pleased to approve the amended submission, and I wish to thank you for the flexible and cooperative approach you and your team exhibited in negotiating changes in the design to improve the quality of the project.

I trust that as Contract Documents are developed you will maintain the very high standards of design apparent in the work to date. Congratulations to Beacon and SOM on this outstanding architectural effort.

Very truly yours,


Stephen Coyle

SC/BK/bas

ROWES WHARF/DESIGN DEVELOPMENT SUBMISSION
INDEX OF DRAWINGS

APRIL 19,1985

SITE WORK

<u>DWG NO:</u>	<u>DESCRIPTION</u>
ASK-854	ATLANTIC AVENUE LOOKING NORTH
ASK-855	NORTHERN PROMENADE
ASK-856	ROWES WALK ENTRY
ASK-857	ROWES WALK FROM NORTH WHARF & ENTRY
ASK-858	ROWES WALK FROM NORTH & CENTRAL WHARFS
ASK-859	ROWES WALK AT CENTRAL WHARF ENTRY
ASK-860	ROWES WALK FROM FOSTERS COURT
ASK-1010	ROWES WALK AT HARBOR
ASK-862	ROWES WALK LOOKING NORTH TOWARDS ENTRY GATE
ASK-863	SITE DETAILS
ASK-864	NORTHERN PROMENADE
ASK-865	PLANT PALETTE
ASK-1011	CROSSWALK AND TRAFFIC PLAN
ASK-775	SITE DEVELOPMENT PLAN
ASK-776	SITE DETAILS
ASK-777	SITE DETAILS
ASK-778	SITE DETAILS
ASK-779	RAMP & MISC. SITE DETAILS
ASK-953	FERRY PAVLION PLAN & ELEVATION
ASK-805	AAB FOSTER'S COURT PAVING PATTERN
ASK-866	EXTERIOR SITE LIGHTING

AAB FLOOR PLANS

<u>DWG NO:</u>	<u>DESCRIPTION</u>
ASK-955	AAB GARAGE LEVEL-5-NORTH FLOOR PLAN
ASK-956	AAB GARAGE LEVEL-5-SOUTH FLOOR PLAN
ASK-957	AAB GARAGE LEVEL-4-NORTH FLOOR PLAN
ASK-958	AAB GARAGE LEVEL-4-SOUTH FLOOR PLAN
ASK-959	AAB GARAGE LEVEL-3-NORTH FLOOR PLAN
ASK-960	AAB GARAGE LEVEL-3-SOUTH FLOOR PLAN
ASK-961	AAB GARAGE LEVEL-2-NORTH FLOOR PLAN
ASK-962	AAB GARAGE LEVEL-2-SOUTH FLOOR PLAN
ASK-963	AAB GARAGE LEVEL-1-NORTH FLOOR PLAN
ASK-964	AAB GARAGE LEVEL-1-SOUTH FLOOR PLAN
ASK-965	AAB FERRY TERMINAL FLOOR PLAN
ASK-966	AAB GROUND LEVEL FLOOR PLAN
ASK-967	AAB LEVEL 2 FLOOR PLAN
ASK-968	AAB LEVEL 3 FLOOR PLAN
ASK-969	AAB LEVEL 4 FLOOR PLAN
ASK-970	AAB LEVEL 5 FLOOR PLAN
ASK-971	AAB LEVEL 6 FLOOR PLAN
ASK-972	AAB LEVEL 7 FLOOR PLAN
ASK-709	AAB LEVEL 8 FLOOR PLAN
ASK-710	AAB LEVEL 9 FLOOR PLAN
ASK-711	AAB LEVEL 10 FLOOR PLAN - NORTH & SOUTH

APRIL 19, 1985

AAB FLOOR PLAN

<u>DWG NO:</u>	<u>DESCRIPTION</u>
ASK-801	AAB LEVEL 9 ROTUNDA FLOOR PLAN
ASK-802	AAB LEVEL 10 ROTUNDA FLOOR PLAN
ASK-895	AAB LEVELS 8-10 FLOOR PLANS - NORTH TOWER
ASK-895	AAB LEVELS 11-13 FLOOR PLANS - NORTH TOWER
ASK-897	AAB LEVEL 14 FLOOR PLANS - NORTH TOWER
ASK-898	AAB LEVEL 15 FLOOR PLANS - NORTH TOWER
ASK-712	AAB LEVELS 11-14 FLOOR PLANS - SOUTH TOWER
ASK-713	AAB LEVEL 15 FLOOR PLANS - SOUTH TOWER
ASK-973	AAB NORTH & SOUTH MECH. PENTHOUSE & MECH. MEZZANINE FLOOR PLANS
ASK-974	AAB MISC MECH. MEZZANINE FLOOR PLANS
ASK-975	AAB ROOF PLAN & DETAILS

NWB FLOOR PLANS

<u>DWG NO:</u>	<u>DESCRIPTION</u>
ASK-976	NWB GROUND & LEVEL 2 FLOOR PLANS
ASK-977	NWB ROOF PLAN

CWB FLOOR PLANS

<u>DWG NO:</u>	<u>DESCRIPTION</u>
ASK-714	CWB GROUND & LEVEL 2 FLOOR PLANS
ASK-715	CWB LEVELS 3 & 4 FLOOR PLANS
ASK-716	CWB LEVELS 5 & 6 FLOOR PLANS
ASK-717	CWB UTILITY ACCESS & ROOF PLANS

EXTERIOR WALL

<u>DWG NO:</u>	<u>DESCRIPTION</u>
ASK-978	AAB EAST & WEST ELEVATIONS
ASK-728	AAB NORTH & SOUTH ELEVATIONS & SOUTH WHARF & NORTH ELEVATION
ASK-729	AAB LONGITUDINAL SECTIONS
ASK-730	AAB TRANSVERSE BUILDING SECTIONS
ASK-664	AAB TYPICAL PARTIAL GROUND LEVEL & LEVEL 2 EXTERIOR WALL ELEVATION & SECTIONS
ASK-764	AAB FOSTER'S COURT GROUND FLOOR PLAN
ASK-765	AAB FOSTER'S COURT LEVEL 2 FLOOR PLAN
ASK-739	AAB ATLANTIC AVENUE ARCH ROTUNDA ELEVATION
ASK-740	AAB FOSTER'S COURT ROTUNDA SECTION
ASK-731	AAB TYPICAL EXTERIOR WALL SECTIONS
ASK-732	AAB TYPICAL EXTERIOR WALL DETAILS
ASK-706,707	AAB COLUMN DETAILS
ASK-774	NWB GARAGE EXHAUST STUDY PLANS, ELEVATION, SECTION & PERSPECTIVE
ASK-563	NWB ELEVATIONS
ASK-564	CWB ELEVATIONS
ASK-748	CWB PARTIAL SOUTH ELEVATION & SECTION

One Post Office Square Boston, Massachusetts 02109 617 451-2100

NOTICE:
THIS REQUEST FOR APPROVAL
REQUIRES IMMEDIATE REPLY
FAILURE TO RESPOND WITHIN 10
DAYS SHALL RESULT IN AUTOMATIC
APPROVAL

April 19, 1985

Boston Redevelopment Authority
One City Hall Square
Boston, MA 02201

Attn: Mr. Robert Kroin
Chief Architect

Re: Rowes Wharf/Design Development

Dear Mr. Kroin:

This will confirm the formal submittal of the Design Development package for the Rowes Wharf project. Materials submitted are the two sets of drawings previously transmitted on April 11, entitled "Rowes Wharf - Issued to The Boston Redevelopment Authority for Design Development Approval, April 9, 1985." Drawings submitted are listed in the attached schedule.

This will also confirm certain changes to the design submission that were discussed and agreed to at our meeting on Thursday, April 18, 1985.

1. Paving: Site paving will be almost exclusively brick, using the Hastings brick pavers which have a fine wire finish. Patterning will be achieved through the use of color variation in the Hastings pavers, and patterning will be extended to encompass the walkway at elevation 16 leading to the Ferry Terminal on both sides of the South Wharf. Adrian wishes to further explore the precise details of the paving of the sidewalk north of the South Wharf, and has suggested a more simple patterning than is otherwise employed. Adrian has also expressed the desire, which we confirm, to employ very limited areas of granite as a further feature in some pattern areas.

2. Walls in the Site Package: All walls in the site package -- planters in the north walkway, planters between the Central and North Wharf, walls at the handicap ramp at Foster's Court, and the stoops at the Central and North Wharf -- will be developed in the material palette including brick as the primary material, with a limestone coping and a combination of limestone and granite base. Iron inserts as shown in the design submission will be incorporated using these new materials. During the construction documents phase, Adrian will be preparing and submitting for approval the precise detail of the base, in response to the concern about the durability of the limestone material at the junction of the vertical and horizontal planes.
3. Bollards: Bollards will be granite. At this time they are contemplated to be an 18" square fencepost-type design.
4. Lighting: The major columnar light fixture will incorporate a granite base. Light fixtures along Atlantic Avenue will be changed to the standard Acorn type fixture, and will be increased from 4 to 6 fixtures to address Shirley's concern about the amount of lighting necessary. The sconces at the entrances will be kept in the same family of fixtures used throughout the remainder of the project.
5. Under-artery Treatment: As discussed previously, we are committed to providing a continuous treatment in paving and lighting from the island in the northwest area of the site, connecting to either High or Broad Street. We would like to defer further development of this design until after Design Development approval; to allow us to incorporate additional information regarding site development plans of the International Place project, any other regulatory issues (Public Improvement Commission, Department of Public Works etc.) and to allow ample time for the design to properly develop.

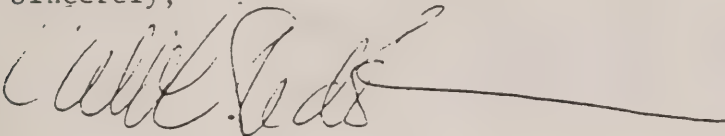
Mr. Robert Kroin

April 19, 1985

Page Three

I want to thank you and the BRA and BSA team members for a very positive and productive meeting. We look forward to your timely approval of the Design Development submission and your continuing input as we proceed into the Contract Document phase.

Sincerely,

A handwritten signature in dark ink, appearing to read "Carol Gladstone", followed by a long horizontal line extending to the right.

Carol Gladstone
Project Manager

CG/csw

Attachments

cc: Paul McCann, Esq. - Boston Redevelopment Authority
Mr. Oscar Padjen - Boston Society of Architects
Mr. Edwin Sidman - The Beacon Companies
Myrna Putziger, P.C. - McCormack & Zimble

NOTICE OF OFFICE/RETAIL UNIT LEASE

In accordance with the provisions of Massachusetts General Laws, Chapter 183, Section 4, notice is hereby given of the following described Lease dated _____, 1985, which Notice is to be recorded with the Suffolk Registry of Deeds.

I. PARTIES TO THE LEASE:

- A. Landlord: The Boston Redevelopment Authority, a public body politic and corporate with an address at 1 City Hall Square, Boston, MA 02201.
- B. Tenant: Rowes Wharf Associates, a joint venture between The Equitable Life Assurance Society of the United States, a New York Corporation, and Rowes Wharf Limited Partnership, a Massachusetts limited partnership, with an address c/o The Beacon Companies, 1 Post Office Square, Boston, MA 02109.

II. DATE OF LEASE: _____, 1985.

III. LEASED PREMISES:

The Office/Retail Unit in that certain condominium known as The Condominium at Rowes Wharf (the "Condominium") to be created by the Master Deed (the "Master Deed") referred to and defined in the Ground Lease of even date from Landlord to Tenant (the "Ground Lease") notice of which is recorded herewith, which Office/Retail Unit shall be substantially as described in Exhibit A attached hereto, together with (i) the undivided percentage interest appurtenant to said Unit in the common elements of the Condominium and in the organization of Unit Owners, and (ii) such other rights and easements appurtenant to the Unit as may be set forth in any document governing the Condominium, including the Master Deed and the By-Laws of the organization of Unit Owners. Said Condominium is situated on

Atlantic Avenue in Boston, Suffolk County, Massachusetts and is further described in Exhibit "A-1" attached hereto. Upon execution and recording of the Master Deed the description of the Leased Premises shall be deemed amended to the extent of any discrepancy between the description of the Office/Retail Unit in the Master Deed and Exhibit A so that the description of the Leased Premises shall coincide with said description of the Office/Retail Unit established by the Master Deed, to the extent of any discrepancy between said Master Deed description and Exhibit A.

IV. TERM:

Commencing on the recording of the Master Deed at Suffolk Registry of Deeds (the "Commencement Date") and ending on the day preceding the eightieth (80th) anniversary of the Commencement Date; provided that if for any reason the Commencement Date has not occurred by the expiration of the term of the Ground Lease, the Lease shall terminate and be null and void and of no further force or effect as of the date of expiration of the term of the Ground Lease.

V. TENANT'S OPTION TO PURCHASE:

The Leased Premises are subject to Tenant's option to purchase Landlord's interest in the Leased Premises, exercisable by written notice from Tenant to Landlord given at any time during the period commencing with the beginning of the eighteenth (18th) Lease Year through and including the last day of the twenty-fifth (25th) Lease Year, subject to the terms and conditions set forth in Article 24 of the Lease.

VI. MISCELLANEOUS: The Lease sets forth additional rights, obligations, terms and conditions not enumerated herein. This instrument is not intended to vary the rights, obligations, terms and conditions of the Lease.

WITNESS the execution hereof under seal as of the day above written.

LANDLORD:

BOSTON REDEVELOPMENT AUTHORITY

By: _____
Its Director

TENANT:

ROWES WHARF ASSOCIATES

By: ROWES WHARF LIMITED PARTNERSHIP

By: _____
General Partner

By: THE EQUITABLE LIFE ASSURANCE
SOCIETY OF THE UNITED STATES

By: _____
Its

COMMONWEALTH OF MASSACHUSETTS

_____, ss:

_____, 1985

Before me, personally appeared Stephen Coyle, Director of the Boston Redevelopment Authority and acknowledged the foregoing to be the free act and deed of the Boston Redevelopment Authority.

Notary Public

My commission expires: _____

COMMONWEALTH OF MASSACHUSETTS

_____, SS:

_____, 1985

Before me, personally appeared _____, a
general partner of Rowes Wharf Limited Partnership and
acknowledged the foregoing to be the free act and deed of Rowes
Wharf Limited Partnership.

Notary Public

My commission expires: _____

COMMONWEALTH OF MASSACHUSETTS

_____, SS:

_____, 1985

Before me, personally appeared _____,
_____ of The Equitable Life Assurance Society of the
United States and acknowledged the foregoing to be the free act
and deed of Equitable Life Assurance Society of the United States.

Notary Public

My commission expires: _____

Thence turning and running N 2° 11' 11" W along the easterly sideline of said Atlantic Avenue, a distance of two hundred fifty-four and 67/100 (254.67) feet to the point of beginning,

said parcel containing 234,224 square feet, more or less and being shown on a plan entitled "Property Line Plan for The Beacon Companies, Atlantic Avenue, Boston, Massachusetts" dated April 16, 1984, Scale 1 inch = 40 feet, prepared by Cullinan Engineering Co., Inc., recorded with Suffolk Registry of Deeds at Book 11419, Page 10.

Parcel B

That certain parcel of land beneath the surface of Atlantic Avenue in Boston, Suffolk County, Massachusetts shown on a plan entitled "Taking Plan, Rowes Wharf/Fosters Wharf Redevelopment Project, Boston Redevelopment Authority, Boston (Suffolk County) Massachuestts" prepared by Cullinan Engineering Co., Inc., Civil Engineers & Land Surveyors, Scale 1" = 20', dated November 27, 1984 recorded with Suffolk Registry of Deeds at Book 11351, Page 193, bounded and described as follows:

Beginning at a point on the easterly sideline of Atlantic Avenue, said point being the northeast corner of the property to be described, said property being now or formerly of the Boston Redevelopment Authority, said point of beginning having a Massachusetts Coordinate System value of X=721,346.69 and Y=494,815.18;

Thence turning and running S 2° 11' 11" E along the easterly sideline of said Atlantic Avenue, a distance of two hundred fifty-four and 67/100 (254.67) feet to a point;

Thence turning and running S 9° 10' 35" W, along the easterly sideline of said Atlantic Avenue, a distance of two hundred eight and 81/100 (208.81) feet to a point;

Thence turning and running N 78° 09' 39" W along land now or formerly of the City of Boston, a distance of eleven and 09/100 (11.09) feet to a point;

Thence turning and running in an arc curving to the left having a radius of one thousand two hundred thirty-four and 88/100 (1,234.88) feet for a distance of four hundred fifty-seven

and 70/100 (457.70) feet to a point;

Thence running N 71° 12' 21" E along land of the City of Boston, a distance of eleven and 95/100 (11.95) feet to the point of beginning,

said parcel being located vertically beneath the sidewalk between elevation 19.00 and 18.60 and continuing below.

NOTICE OF GROUND LEASE

In accordance with the provisions of Massachusetts General Laws, Chapter 183, Section 4, notice is hereby given of the following described Lease dated _____, 1985, which Notice is to be recorded with the Suffolk Registry of Deeds.

I. PARTIES TO THE LEASE:

- A. Landlord: The Boston Redevelopment Authority, a public body politic and corporate with an address at 1 City Hall Square, Boston, MA 02201.
- B. Tenant: Rowes Wharf Associates, a joint venture between The Equitable Life Assurance Society of the United States, a New York Corporation, and Rowes Wharf Limited Partnership, a Massachusetts limited partnership, with an address c/o The Beacon Companies, 1 Post Office Square, Boston, MA 02109.

II. DATE OF LEASE: _____, 1985.

III. LEASED PREMISES:

Those certain premises situated on Atlantic Avenue in Boston, Suffolk County, Massachusetts (but excluding all buildings, structures and other improvements of whatever kind or nature whatsoever hereafter erected or installed thereon (the "Improvements")) which premises constituting both land and water area, are more particularly described in Exhibit "A" attached hereto and which consists of 234,224 square feet more or less, and a subsurface parcel beneath Atlantic Avenue containing 3865 square feet, more or less, together with all

right, title and interest of Landlord in and to any easements, riparian rights (subject to restrictions set forth in Articles 7 and 8 of the Lease) and or other rights now or hereafter appurtenant to said premises, specifically including those set forth in Exhibit A, subject however, to the exceptions to fee title described as the Permitted Exceptions set forth in Exhibit "B" to the Lease.

IV. TERM:

Commencing on the date of the Lease (the "Commencement Date") and ending upon the earlier to occur of (i) the fifteenth (15th) anniversary of the Commencement Date or (ii) recording of a Master Deed pursuant to the provisions of Article 24 of the Lease submitting the Leased Premises and the Improvements to the provisions of M.G.L. Chapter 183A so as to create a condominium to be known as The Condominium at Rowes Wharf.

V. LANDLORD'S COVENANT NOT TO ENCUMBER FEE:

Landlord covenants not to encumber the fee simple title of Landlord in and to the Leased Premises or Landlord's interest in the Improvements subject to the qualifications set forth in Article 24 of the Lease.

VI. RIGHT OF FIRST REFUSAL:

The Leased Premises are subject to the Tenant's right of first refusal to purchase the Leased Premises as set forth in Section 34.11 of the Lease.

VII. MISCELLANEOUS: The Lease sets forth additional rights, obligations, terms and conditions not enumerated herein. This instrument is not intended to vary the rights, obligations, terms and conditions of the Lease.

WITNESS the execution hereof under seal as of the day above written.

LANDLORD:

BOSTON REDEVELOPMENT AUTHORITY

By: _____
Its Director

TENANT:

ROWES WHARF ASSOCIATES

By: ROWES WHARF LIMITED PARTNERSHIP

By: _____
General Partner

By: THE EQUITABLE LIFE ASSURANCE
SOCIETY OF THE UNITED STATES

By: _____
Its

COMMONWEALTH OF MASSACHUSETTS

_____, ss: _____, 1985

Before me, personally appeared Stephen Coyle, Director of the Boston Redevelopment Authority, and acknowledged the foregoing to be the free act and deed of the Boston Redevelopment Authority.

Notary Public
My commission expires: _____

COMMONWEALTH OF MASSACHUSETTS

_____, ss: _____, 1985

Before me, personally appeared _____, a
general partner of Rowes Wharf Limited Partnership and
acknowledged the foregoing to be the free act and deed of Rowes
Wharf Limited Partnership.

Notary Public

My commission expires: _____

COMMONWEALTH OF MASSACHUSETTS

_____, ss: _____, 1985

Before me, personally appeared _____,
_____ of The Equitable Life Assurance Society of
the United States and acknowledged the foregoing to be the free
act and deed of Equitable Life Assurance Society of the United
States.

Notary Public

My commission expires: _____

EXHIBIT A

DESCRIPTION OF LEASED PREMISES

Parcel A

A parcel of land and water known as Rows and Fosters Wharves, on Atlantic Avenue in Boston, Suffolk County, Massachusetts, bounded and described as follows:

Beginning at a point on the easterly sideline of Atlantic Avenue, said point being the northwest corner of the property to be described, said property being now or formerly of the Boston Redevelopment Authority, said point of beginning having a Massachusetts Coordinate System value of X=721,346.69 and Y=494,815.18;

Thence running N 71° 12' 21" E along land or formerly of First City Developments Corp. of Boston - Harbor Towers II, a distance of six hundred forty-six and 50/100 (646.50) feet to a point on the State Harbor Line and former United States Pierhead & Bulkhead Line established by the War Department on April 24, 1940;

Thence turning and running S 28° 55' 55" W along said State Harbor Line and former United States Pierhead & Bulkhead Line a distance of eight hundred fifty and 01/100 (850.01) feet to a point;

Thence turning and running N 69° 05' 34" W along a line perpendicular to the Harbor Line in Boston Harbor established by Chapter 170 of the Acts of 1880 a distance of thirty-three and 12/100 (33.12) feet to a point;

Thence turning and running N 78° 09' 39" W along land now or formerly of Atlantic Avenue Limited Partnership, a distance of two hundred one and 29/100 (201.29) feet to a point;

Thence turning and running N 9° 10' 35" E, along the easterly sideline of said Atlantic Avenue, a distance of two hundred thirty-one and 00/100 (231.00) feet to a point;